

EXHIBIT

27

In The Matter Of:
TERRY LYNN KING vs
TONY PARKER, et al.

VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF
September 16, 2021
IV TEAM MEMBER 2

Gibson Court Reporting
606 West Main Street
Suite 350
Knoxville, TN 37902



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VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF
IV TEAM MEMBER 2

September 16, 2021

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

TERRY LYNN KING,)	
)	
Plaintiff,)	CAPITAL CASE
)	
vs.)	CASE NO.
)	3:18-CV-01234
TONY PARKER, et al.,)	
)	
Defendants.)	

APPEARANCES:

FOR THE PLAINTIFF:

LYNNE LEONARD, ESQ.
ANA BALDRIDGE, ESQ.
Assistant Federal Defenders
Federal Community Defender Office
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1 APPEARANCES: (Continued)

2 FOR THE DEFENDANTS:

3 ROBERT W. MITCHELL, ESQ.

4 SCOTT C. SUTHERLAND, ESQ.

5 DEAN S. ATYIA, ESQ.

6 CODY N. BRANDON, ESQ.

Tennessee Attorney General's Office

P.O. Box 20207

Nashville, Tennessee 37202

7 ALSO PRESENT: David Jenkins, Videographer

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S T I P U L A T I O N S

The videotaped videoconference deposition of IV TEAM MEMBER 2, called as a witness at the instance of the Plaintiff, taken pursuant to all rules applicable to the Federal Rules of Civil Procedure by notice on the 16th day of September, 2021, at 10:07 a.m., before Rhonda S. Sansom, RPR, CRR, CRC, Licensed Court Reporter, pursuant to stipulation of counsel.

It being agreed that Rhonda S. Sansom, RPR, CRR, CRC, Licensed Court Reporter, may report the deposition in machine shorthand, afterwards reducing the same to typewriting.

All objections except as to the form of the questions are reserved to on or before the hearing.

It being further agreed that all formalities as to notice, caption, certificate, transmission, et cetera, including the reading of the completed deposition by the witness and the signature of the witness, are expressly waived.

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E X H I B I T S
(No Exhibits Were Marked.)

1 THE VIDEOGRAPHER: We're on the record at 10:07
2 a.m. on September 16th, 2021.

3 This is the video deposition of IV Team
4 2, taken remotely via Zoom in the matter of Terry
5 Lynn King versus Tony Parker, et al., Case No.
6 3:18-CV-01234, filed in the U.S. District Court,
7 Middle District of Tennessee, Nashville Division.

8 Counsel will state their names and
9 affiliation for the record and the court reporter
10 will swear in the witness.

11 MS. LEONARD: Good morning. My name is
12 Lynne Leonard. I'm an attorney at the Federal
13 Community Defender Office in Philadelphia,
14 Pennsylvania. And my colleagues and I represent
15 the plaintiff, Terry King, in this action pending
16 in the Middle District of Tennessee.

17 Also with me representing the plaintiff
18 are Christopher Sabis, who is at Sherrard Roe in
19 Nashville; Jeremy Gunn, who is at Bass, Berry &
20 Sims; and sitting with me in my office here
21 physically in Philadelphia is my colleague at the
22 Federal Community Defender, Ana Baldrige.

23 MR. SUTHERLAND: I'm Scott Sutherland
24 with the Tennessee Attorney General's Office. We
25 represent the defendants in the case, Tony Parker,

1 Tony Mays.

2 And present with me is -- are my
3 colleagues from the Tennessee Attorney General's
4 Office, Dean Atyia, Cody Brandon. And sitting in
5 my office with me is Attorney Rob Mitchell.

6 IV TEAM MEMBER 2,
7 having been first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. LEONARD:

10 Q. All right. Good morning, IV Team Member.
11 I'm sorry I cannot use your name, but is it okay if I
12 address you as IV Team Member, or is there some other
13 way you want me to address you?

14 A. That would be fine.

15 Q. Okay. Thank you. Also thank you for
16 taking time to answer questions in this matter today.

17 You understand you're here today to
18 answer questions related to the Terry King case; is
19 that right?

20 A. That's correct.

21 Q. And what's your understanding of what
22 this case is about?

23 A. My understanding of the case is that it's
24 a challenge to the lethal injection protocol.

25 Q. Okay. Have you had your deposition taken

1 before?

2 A. No.

3 Q. Okay. Then I'd like to just cover a
4 couple of ground rules before we get started to make
5 sure we're on the same page, especially since we're in
6 -- we have a couple of technological extras here with
7 the Zoom and the voice modulator and so forth.

8 Do you understand that you are under
9 oath?

10 A. I do.

11 Q. And do you understand that that means you
12 need to tell the truth to the best of your ability?

13 A. I do.

14 Q. Is there any reason you cannot testify
15 truthfully today?

16 A. There's no reason.

17 Q. Are you feeling ill?

18 A. No.

19 Q. Are you taking any medication that might
20 affect your ability to recall facts?

21 A. No.

22 Q. Are you represented by counsel here
23 today?

24 A. The Attorney General's Office.

25 Q. And is anyone in the room with you?

1 A. No.

2 Q. Okay. Since -- again, since we're on
3 Zoom and a bit of a different format here, please let
4 us know if anyone does comes into the room at any point
5 today throughout this deposition. Okay?

6 A. Yes.

7 Q. And even though we're on Zoom, the court
8 reporter is making a record based on what you say, so
9 it's important to respond to questions verbally rather
10 than with any sort of head nods or gestures or other
11 motions. Do you understand that?

12 A. Yes.

13 Q. Okay. Great. And in order for the court
14 reporter to be able to accurately record your
15 testimony, please just wait for me to finish my
16 question before you give your answer. And I'll make
17 sure that I try to do the same for you.

18 A. Okay.

19 Q. If you don't understand a question at any
20 point, just let me know and I'll clarify it. If you do
21 answer a question, then I will assume that you
22 understood it. Is that okay?

23 A. Sure.

24 Q. All right. And if you need a break at
25 any time, just let me know. The only exception to that

1 is if there's a question pending right at that moment,
2 we'll ask that you answer the question before we go off
3 the record.

4 A. Okay.

5 Q. Your lawyer may object to my questions
6 from time to time, but you will still need to answer
7 the question unless the objection is based on a
8 privilege assertion or based on statute. Do you
9 understand that?

10 A. Yes.

11 Q. Okay. And do you have any questions for
12 me about any of that or any of the formalities before
13 we get started?

14 A. I don't.

15 Q. What did you do to prepare for today's
16 deposition?

17 A. I had a meeting with attorneys from the
18 Attorney General's Office.

19 Q. Okay.

20 A. And --

21 Q. I'm sorry?

22 A. I'm sorry. And I also reviewed our
23 protocols.

24 Q. Who did you meet from the Attorney
25 General's Office?

1 A. The representatives here today.

2 Q. So Mr. Sutherland?

3 A. Mr. Sutherland, Dean, and the other
4 gentleman sitting with Scott.

5 Q. Mr. Mitchell?

6 A. Mitchell, yes.

7 Q. Got it. Okay. And how many meetings did
8 you have?

9 A. One.

10 Q. About how long was that meeting?

11 A. Maybe two hours.

12 Q. And when did that meeting take place?

13 A. Tuesday afternoon of this week.

14 Q. Was anyone else present at that meeting,
15 aside from the lawyers you just mentioned?

16 A. No.

17 Q. And you mentioned that you reviewed the
18 protocols. What protocols exactly did you review?

19 A. Our lethal injection protocol.

20 Q. Okay. And was there any other document
21 that you reviewed during the meeting?

22 A. No.

23 Q. Did you review any other documents on
24 your own?

25 A. No.

1 Q. So you only reviewed the lethal injection
2 protocol; is that right?

3 A. Yes.

4 Q. And did that protocol refresh your
5 recollection of any specific issues?

6 MR. SUTHERLAND: Object to the form. You
7 can answer.

8 THE WITNESS: It did not.

9 BY MS. LEONARD:

10 Q. Did you meet with anyone other than your
11 attorneys at any point to prepare for this deposition?

12 A. No.

13 Q. Did you review the transcripts of any of
14 the other depositions taken so far in this case?

15 A. I did not.

16 Q. Did anyone consult with you to prepare
17 for his or her own deposition in this case; for
18 example, the Warden or the Commissioner or the
19 Executioner?

20 A. No.

21 Q. Did you review any of the papers that had
22 been filed with the Court in this case?

23 A. I don't believe so.

24 Q. For example, that would be something like
25 the Complaint that was filed in this case, or the

1 Answer that your attorneys have filed. Does any of
2 that ring a bell?

3 A. I did not review those.

4 Q. Okay. Did you discuss this deposition
5 with anyone other than your counsel?

6 A. No.

7 Q. Okay. Did you do anything else to
8 prepare for this deposition today?

9 A. No, that was all.

10 Q. How much time in total do you estimate
11 you spent preparing for this deposition?

12 A. In addition to the meeting, maybe a
13 couple of hours.

14 Q. A couple of hours? Two hours, five
15 hours? Just any sort of rough estimate?

16 A. Maybe two, roughly.

17 Q. Okay. So roughly a two-hour meeting with
18 your attorneys and then an additional two hours?

19 A. Roughly.

20 Q. On your own?

21 A. Yes.

22 Q. Okay. And we're going to take this on --
23 this deposition on an anonymous basis, as I'm sure you
24 already understand; and what that means is, I'm not
25 going to ask you any questions that are intended to

1 make you disclose your identity.

2 Let's pull up Exhibit 1.

3 MS. LEONARD: For the record, we're going
4 to use the same set of exhibits that we've been
5 using for the previous depositions. I assume
6 that's all okay? Great, thanks.

7 BY MS. LEONARD:

8 Q. So we'll pull up Exhibit 1.

9 A. Okay.

10 Q. Do you want to take a minute to look
11 through this?

12 A. Just one second.

13 I'm familiar with this.

14 Q. When is the last time you reviewed this
15 document?

16 A. Last night.

17 Q. Okay. And what is this document?

18 A. Lethal injection protocol for Tennessee
19 Department of Correction.

20 Q. Okay. And when was the first time that
21 you ever saw this document?

22 A. Roughly sometime in 2016.

23 Q. When -- have you read this document in
24 its entirety?

25 A. Yes.

1 Q. When was the last time that you read it
2 in its entirety?

3 A. Sometime earlier this year, but I'm not
4 sure of the date.

5 Q. Did you review it -- you said you
6 reviewed it last night in preparing for this
7 deposition?

8 A. Correct.

9 Q. Did you review it, did you read it in its
10 entirety then?

11 A. Not in its entirety.

12 Q. If I refer to this as the protocol,
13 you'll understand what I'm talking about?

14 A. I will.

15 Q. Okay. And is it okay if I refer to the
16 Tennessee Department of Correction as TDOC?

17 A. Sure.

18 Q. Okay. Great. What do you understand the
19 purpose of this protocol to be?

20 A. To provide a guide --

21 MR. SUTHERLAND: Objection. Objection to
22 the form. You can answer.

23 THE WITNESS: To provide a guide, an
24 instruction, on carrying out these duties.

25 BY MS. LEONARD:

1 Q. Okay. And are you the individual --
2 let's go to Page 15. And you can let me know when you
3 get there. I don't want to rush you.

4 A. Okay. I'm there.

5 Q. Do you see at the top it says "Lethal
6 Injection Recorder?"

7 A. I do.

8 Q. Are you the individual designated as the
9 Lethal Injection Recorder on this page?

10 A. Not in its entirety. I carry out Part
11 No. 3 in those duties.

12 Q. So you carry out -- No. 3 says: "To
13 complete the Lethal Injection and Executioner and
14 Recorder Checklist." Is that the only duty on this
15 page that you perform?

16 A. No -- on this page, yes. A Lethal
17 Injection and Execution Recorder Checklist is not the
18 document that I complete. There are other documents
19 related to preparation, administration of chemicals.

20 Q. I'm sorry, you said the Lethal Injection
21 Execution Recorder Checklist on that page are not the
22 documents you complete?

23 A. That checklist I don't complete. There
24 are a couple of other checklists and forms that I
25 complete.

1 Q. Okay. So would you identify yourself as
2 the person, the Lethal Injection Recorder, described on
3 this page?

4 A. I would not.

5 Q. Okay. Do you know, without identifying
6 that -- the name of that person, do you know who that
7 individual is?

8 A. I'm not sure.

9 Q. Okay. If we scroll to Page 20 --
10 two-zero.

11 A. Okay.

12 Q. At the top of that page, it says "IV
13 Team." Do you see that?

14 A. Yes.

15 Q. Are you a member of the IV Team as
16 described on this page?

17 A. Yes.

18 Q. How many total IV Team members are there?

19 A. I'm not certain of the number. Maybe
20 three or four.

21 Q. Does every IV Team Member attend every
22 execution?

23 A. I'm not sure. I don't know.

24 Q. Have you attended every execution since
25 you became an IV Team Member?

1 A. I have.

2 Q. Okay. And so when you say "three or
3 four," has the number -- has it sometimes been three
4 people total and sometimes been four?

5 A. I don't think that the number has
6 changed. I just don't recall the number of people that
7 were there.

8 Q. Okay. We can -- let's see.
9 If you could go back up to Page 8 of the
10 same document.

11 A. Okay. I'm there.

12 Q. Okay. And this page says at the top,
13 "Definitions," and about halfway down there's a
14 definition for the Execution Team. Do you see where
15 I'm looking?

16 A. I do.

17 Q. Great. And it has a list there: "The
18 Execution Team shall consist of," with a list. And
19 about halfway through that list it says "IV Team."

20 A. Uh-huh.

21 Q. Do you consider yourself a member of the
22 IV Team as identified on this page?

23 A. Yes.

24 Q. Do you hold any of the other roles on
25 this list?

1 A. Give me one second to review it.

2 I do not.

3 Q. And again, without identifying anyone, do
4 you know who all of the other people are who fill these
5 roles in this list?

6 A. I do not.

7 Q. Is -- are each of these roles always
8 filled by the same individual?

9 A. I don't know. These roles are assigned
10 by the Warden.

11 Q. Okay. And is it possible they could
12 change from one execution to the next?

13 A. It's possible.

14 Q. Let's go to Page 31, three-one.

15 A. Okay.

16 Q. On the second half of that page, are you
17 one of the three correctional staff identified at the
18 bottom of Page 31?

19 A. I am.

20 Q. Have you received IV training through the
21 Tennessee Correction Academy by qualified medical
22 professionals?

23 A. My training was not through the Tennessee
24 Correction Academy. It was through a third-party
25 medical provider.

1 Q. And when did that training take place?

2 A. It would have been 2016. I don't recall
3 the date.

4 Q. How long did the training last,
5 approximately?

6 A. Approximately eight hours.

7 Q. Eight hours total?

8 A. I believe so.

9 Q. Was that all on a single day?

10 A. I don't remember. Likely so.

11 Q. What type of medical professionals
12 conducted the training?

13 A. It was a -- it was an IV therapy
14 specialist.

15 Q. Just one IV therapy specialist?

16 A. I believe it was just one.

17 Q. Who else attended that training with you,
18 without giving me anybody's names?

19 A. There were two other members.

20 Q. Two other members of the IV Team?

21 A. No, two other members as relates to these
22 three correctional staff. Those two other members are
23 -- well, one is still a member of the IV Team. The
24 other ones aren't.

25 Q. So three of you attended the training;

1 all three of you are part of the three correctional
2 staff identified here as having received the training,
3 and one is no longer part of the IV Team. Is that
4 right?

5 A. That's correct.

6 Q. Okay. Was one of the attendees the
7 Executioner?

8 A. No.

9 Q. So it was three of you that are -- none
10 of you were the Executioner?

11 A. The three of us have not been the
12 Executioner.

13 Q. I understand. And what happened to the
14 third person who is no longer part of the IV Team?

15 A. They're no longer with the Department of
16 Correction.

17 Q. Okay. How long has the current protocol
18 been in place?

19 A. Since 2018.

20 Q. Is TDOC required to follow this protocol?

21 MR. SUTHERLAND: Objection to the form.

22 THE WITNESS: Yes.

23 BY MS. LEONARD:

24 Q. Are you allowed to deviate from this
25 protocol?

1 MR. SUTHERLAND: Same objection. You can
2 answer.

3 THE WITNESS: I'm sorry? Did you say I
4 could answer?

5 BY MS. LEONARD:

6 Q. Yes.

7 MR. SUTHERLAND: You can answer.

8 THE WITNESS: I don't -- I would say that
9 there's -- it's not necessarily a complete set of
10 instructions; and so not deviate, but -- I don't
11 know.

12 BY MS. LEONARD:

13 Q. What do you mean when you say it's not a
14 complete set of instructions?

15 A. I would say that sometimes it's --

16 MR. SUTHERLAND: I'm going to object to
17 the form. You can answer.

18 THE WITNESS: It's not a step-by-step
19 guide in every instance.

20 BY MS. LEONARD:

21 Q. Okay. And are you allowed to deviate
22 from the protocol in those instances where you are not
23 getting all the steps you need from the protocol?

24 A. I wouldn't --

25 MR. SUTHERLAND: Object to form. You can

1 answer.

2 THE WITNESS: Sorry. I wouldn't say
3 deviate. Maybe fill in a gap.

4 BY MS. LEONARD:

5 Q. Okay. What's an example of a
6 circumstance where you could fill in a gap?

7 MR. SUTHERLAND: Objection to the form.
8 I think -- Lynne, I'm going to object to -- I
9 think, if you can -- if you want to ask him. I
10 think having him speculate about gaps is an
11 inappropriate question; but if you want to stick
12 with that question, he can answer the best he can.

13 THE WITNESS: I can't think of anything.
14 I'm sorry.

15 BY MS. LEONARD:

16 Q. I can ask it a different way. Have you
17 had to fill in the gaps in a previous execution?

18 A. I can't think of a specific example
19 offhand.

20 Q. Okay. Well, we can come back to this,
21 too.

22 Were you involved in the creation of this
23 protocol?

24 A. I was not.

25 Q. Do you know who was involved in the

1 creation of the protocol?

2 MR. SUTHERLAND: Objection, to the extent
3 that it -- don't -- don't identify anybody, if you
4 know.

5 THE WITNESS: I know that our general
6 counsel was involved in the creation of the
7 protocol. I don't know beyond that.

8 BY MS. LEONARD:

9 Q. Okay. When were you informed about this
10 execution protocol?

11 A. This version, when this became the latest
12 version.

13 Q. So in 2018?

14 A. Yes.

15 Q. Were you asked to consult about the
16 protocol before it was created?

17 A. I don't believe so.

18 Q. In your opinion, should you have been
19 asked?

20 MR. SUTHERLAND: Objection to the form.

21 THE WITNESS: No, I don't believe there
22 were any changes relative to my duties.

23 BY MS. LEONARD:

24 Q. Okay. On Page 6 of the protocol -- I'll
25 give you a minute to get there.

1 A. Okay.

2 Q. In the last sentence on Page 6, there's a
3 sentence saying: "It will be reviewed annually or as
4 needed by a designated panel." Do you see that?

5 A. I do.

6 Q. Are you a member of that panel?

7 A. I have not been.

8 Q. Again, without identifying any names, do
9 you know who is on the panel?

10 A. No, not specifically.

11 Q. Do you know the roles of people on the
12 panel?

13 A. I don't know them for certain, no.

14 Q. How many people are on the panel?

15 A. I don't know.

16 Q. Has the protocol been reviewed by this
17 panel since 2018?

18 A. I don't know the answer to that.

19 Q. Okay. Are you currently employed?

20 A. I am.

21 Q. Where?

22 A. With the Department of Correction.

23 Q. Are you at Riverbend Maximum Security
24 Institution?

25 A. I am not.

1 Q. Where are you employed with TDOC?

2 MR. SUTHERLAND: I object.

3 MS. LEONARD: Scott, I think you're on
4 mute.

5 MR. SUTHERLAND: Can you hear me now?

6 MS. LEONARD: Gotcha now, yes.

7 MR. SUTHERLAND: I'm going to object and
8 instruct the witness not to answer, beyond the
9 fact that he's -- the individual is employed by
10 the Department of Correction, based on the
11 protective order.

12 BY MS. LEONARD:

13 Q. IV Team Member, how long have you been
14 with TDOC?

15 A. Since 2009.

16 Q. And what is your current job title?

17 MR. SUTHERLAND: Same objection.

18 Instruct the witness not to answer the question,
19 based on the protective order.

20 BY MS. LEONARD:

21 Q. Where were you employed prior to working
22 for TDOC?

23 MR. SUTHERLAND: I'm going to object to
24 any specific reference. You can generically say
25 what line of work and generally what business,

1 based on the protective order.

2 THE WITNESS: Prior to coming to TDOC, I
3 was in the military.

4 BY MS. LEONARD:

5 Q. Okay. And how long were you in the
6 military?

7 A. About four and-a-half years.

8 Q. And prior to the military, where were you
9 employed? Same thing; if you could, you can just give
10 a general answer.

11 A. I don't have a general answer for it.
12 It's not identifying, so it was a cabinet shop.

13 Q. I'm sorry, what was that?

14 A. I worked in a cabinet manufacturing shop.

15 Q. Oh, I see. And how long did you do that
16 work?

17 A. Maybe a couple of years.

18 Q. What's a rough estimate for "a couple of
19 years?"

20 A. Maybe two to three, roughly.

21 Q. Okay. And prior to cabinet
22 manufacturing, what type of work did you do?

23 A. Cellular telephone sales. Sorry, I'm
24 having to remember.

25 Q. About how many years did you do that

1 work?

2 A. I think less than two.

3 Q. Okay. And before that, what type of work
4 did you do?

5 A. Before that, I was in high school and
6 worked part-time.

7 Q. Okay. And what type of employment was
8 your part-time employment?

9 A. I worked in a bowling alley.

10 Q. Okay. Does your current position require
11 any special training?

12 MR. SUTHERLAND: Object to the form.

13 THE WITNESS: Yes.

14 BY MS. LEONARD:

15 Q. What type of training?

16 A. Firearms, mostly.

17 Q. Is there any other type of training you
18 receive in your current position, in addition to
19 firearms training?

20 A. Not outside normal TDOC-required
21 training.

22 Q. When did you most recently receive
23 firearms training?

24 A. Either early summer, late spring.

25 Q. Of this year?

1 A. Yes.

2 Q. And you also mentioned that TDOC-required
3 training was part of your current position; is that
4 right?

5 A. Yes.

6 Q. What type of training does that include?

7 A. Things related to policy, career
8 standards. Just general like state government-required
9 stuff.

10 Q. And when did you most recently receive
11 that training?

12 A. I don't remember. It was this year
13 sometime.

14 Q. So sometime within the last nine months?

15 A. Yes.

16 Q. Okay. Does your current position require
17 any medical training?

18 A. It does not.

19 Q. Do you have any medical training?

20 A. No.

21 Q. Have you ever received any medical
22 training?

23 A. Some first responder training in the
24 military.

25 Q. And what did the first responder training

1 involve?

2 A. A variety of things. It included
3 vascular access, starting an IV. It included basically
4 stopping major bleeding, airway obstructions, chest
5 wounds, splinting. That's about all I can remember.

6 Q. And about how many years ago did you last
7 receive that training?

8 A. More than 10. More than 12, I guess,
9 obviously.

10 Q. Okay. Do you have -- in addition to
11 being an IV Team Member, do you have any other titles
12 that you go by with respect to your role in the
13 Execution Team?

14 A. I don't believe so.

15 Q. Does anyone ever call you an Assistant
16 Executioner?

17 A. Not to my face. Not directly.

18 Q. Does anyone ever call you the Recorder?

19 A. Yes.

20 Q. Who -- without giving me a name, who on
21 the team refers to you as the Recorder?

22 A. The Executioner refers to me as the
23 Recorder.

24 Q. Does anyone else refer to you that way,
25 aside from the Executioner?

1 A. Not that I can think of.

2 Q. Does anyone refer to you as the Observer?

3 A. Again, not -- not like a title.

4 Q. Does anyone refer to a different IV Team
5 Member as the Observer?

6 A. I refer to another member of the IV Team
7 as the Observer. It's their official role.

8 Q. I'm sorry, you said you refer to them
9 that way?

10 A. Yes.

11 Q. Okay. And when you say "official role,"
12 what do you mean by "official?"

13 A. So the duties that are assigned within
14 this protocol call for an Observer related to chemical
15 preparation and administration. And that's another
16 member of the IV -- the IV Team in the lethal injection
17 room.

18 Q. Okay. So when we talked about before
19 there being three or four IV Team members, is the
20 Executioner one of those IV Team Members?

21 A. I don't refer to them as an IV -- IV Team
22 Member. I refer to them as the Executioner. I don't
23 know if that's overlap.

24 Q. And so when you say three or four IV Team
25 Members, that does not include the Executioner?

1 A. In my estimation, but I don't know.

2 Q. I'm sorry, you said in your estimation,
3 but you don't know? I think I missed a word.

4 A. Yes, I don't -- I don't know.

5 Q. Okay. Thanks for repeating that.
6 What is your highest level of education?

7 A. Some college.

8 Q. And where did you get that degree?

9 A. I haven't completed the degree. I had
10 classes through Austin Peay State University, and
11 that's all.

12 Q. Okay, I understand. What year did you
13 complete those credits -- or years?

14 A. A number of years, last in 2020.
15 Probably starting in 2008 or '09, I've taken classes.

16 Q. And what type of coursework is that?

17 A. Some general, some political science,
18 some criminal justice.

19 Q. And where did you go to high school? You
20 can -- and without identifying a specific place, you
21 can tell me just geographically where you went to high
22 school.

23 A. Central Pennsylvania.

24 Q. Did you get any special training at your
25 high school?

1 A. No.

2 Q. Was it a regular high school?

3 A. It was.

4 Q. It was not a technical school?

5 A. No.

6 Q. It was not an arts school?

7 A. No.

8 Q. Not a STEM school or a cooking school?

9 A. No.

10 Q. Just a regular high school?

11 A. Just a regular high school.

12 Q. Okay. And aside from high school and the
13 college credits, have you completed any other
14 coursework?

15 A. No.

16 Q. Do you hold any certifications?

17 A. No.

18 Q. Do you hold any professional licenses?

19 A. I do not.

20 Q. Do you participate in any volunteer
21 programs?

22 A. No.

23 Q. Other than executions, have you handled
24 chemicals?

25 A. I'm not sure what you mean.

1 MR. SUTHERLAND: Object to the form.

2 BY MS. LEONARD:

3 Q. Have you worked with chemical substances
4 anywhere aside from your work as the -- in the IV Team?

5 A. When you say "chemicals," are you
6 referring to medication chemicals?

7 Q. Yes.

8 A. Then no.

9 Q. Okay. And have you worked with any other
10 type of chemicals, maybe cleaning chemicals?

11 A. Yes, in a number of different settings.

12 Q. Okay. But you've never worked with
13 controlled substances? When I say "chemicals," if I
14 say "controlled substances," you've never worked with
15 those in any other context?

16 A. Correct.

17 Q. Okay. And have you ever prepared
18 syringes?

19 A. Yes.

20 Q. Have you done that aside from executions?

21 A. Yes.

22 Q. Where have you prepared syringes?

23 A. I'm sorry; no, I prepared IV bags.

24 Q. Okay. And where have you done that?

25 A. In the military.

1 Q. Gotcha. And how many years did you do
2 that?

3 A. Maybe two.

4 Q. Did you receive training on that?

5 A. Yes.

6 Q. Okay. And is that -- fair to say that
7 was also more than 12 years ago?

8 A. Yes.

9 Q. Let's flip to Page 20 of the protocol,
10 the same exhibit.

11 A. Okay.

12 Q. Okay. So you told me earlier that there
13 are three or four total IV Team Members; is that right?

14 A. Uh-huh.

15 Q. How many of those IV Team Members are
16 EMTs?

17 A. I don't refer to any of the EMTs as the
18 IV Team. I refer to them as the EMTs. I don't know if
19 there's a distinction.

20 Q. Sure. So how many EMTs are there, total?

21 A. Generally, three.

22 Q. Is it always three?

23 A. I'm not certain. I don't -- I couldn't
24 say "always."

25 Q. Is it sometimes more than three?

1 A. I've not seen more than three.

2 Q. Is it sometimes fewer than three?

3 A. It has been at training. I don't recall
4 with the execution.

5 MR. SUTHERLAND: I'm going to object to
6 the form. You can answer. Continue.

7 BY MS. LEONARD:

8 Q. You can answer.

9 A. I'm sorry. There have been less than
10 three during monthly training at times, but not -- I
11 don't think so for prior lethal injection executions
12 that I've attended.

13 Q. Okay. And of the three or four IV Team
14 members, none of you are EMTs?

15 A. Not that I'm aware.

16 Q. Okay. Item 1 on this page says "to
17 prepare the IV equipment." What do you do to prepare
18 the IV equipment?

19 A. Set up, connect lines, prepare the -- the
20 saline bags. Spike the bag. Start the flow of the
21 saline solution. Basically, that section of the
22 protocol.

23 Q. Okay. And I think that occurs a couple
24 pages later, so we'll try to loop back to get more
25 detail on that.

1 A. Okay.

2 Q. Item 2. What do you do to make sure the
3 equipment used is in working order?

4 A. That's part of the setup, to ensure a
5 consistent flow of saline through the line.

6 Q. What do you do to locate sites for
7 intravenous use?

8 A. I don't locate the sites.

9 Q. Who does that?

10 A. In my estimation, it looks like it's the
11 EMT.

12 Q. When you say "it looks like," do you mean
13 that's who you see do it during the executions?

14 A. That's who I see actually insert the
15 catheter. If someone else locates the site, I can't
16 see it.

17 Q. Okay. And do -- does the protocol
18 identify someone who's supposed to locate sites for
19 intravenous use?

20 A. Here, it reads the IV Team.

21 Q. But the IV Team does not actually locate
22 the sites for intravenous use?

23 A. I don't know. I'm not -- I'm not in the
24 execution chamber when that's done.

25 Q. Okay. Are you ever in the execution

1 chamber?

2 A. Not during the execution.

3 Q. Are any of the other IV Team Members ever
4 in the execution chamber during an execution?

5 MR. SUTHERLAND: I'm going to object to
6 the form.

7 THE WITNESS: There's another member,
8 other than EMTs. I'm not sure what that person's
9 official assignment is, but they do carry out some
10 of the items in -- in the steps later on related
11 to taping hands and things like that.

12 BY MS. LEONARD:

13 Q. So that requires that person to go into
14 the execution chamber?

15 A. That person is in the execution chamber
16 with the EMTs.

17 Q. Okay. But that's not you?

18 A. That's not me.

19 Q. Okay. And has that ever been you?

20 A. No.

21 Q. Okay. Item 4 on Page 20 says "To make
22 sure vascular access is properly established."

23 A. Uh-huh.

24 Q. Is that something you do?

25 A. That's something that we do jointly.

1 Q. Who is "we?"

2 A. An Observer, as I referenced earlier, as
3 well as the Executioner, is there.

4 Q. Okay. And does the -- does the Observer
5 ever enter the execution chamber during the execution?

6 A. Not that I've been present for.

7 Q. Does the Executioner ever enter the
8 execution chamber during the execution?

9 A. Also, not that I've been present for.

10 Q. Okay. How do you make sure vascular
11 access is properly established?

12 A. We have a camera set up in the lethal
13 injection room where we can zoom to locations. We're
14 able to see the flash of blood in the catheter chamber.
15 When the line is attached, we monitor the
16 drip chamber for flow of saline and also clearing of
17 blood from the chamber of the catheter.

18 Q. Okay. And you do all of this through the
19 camera?

20 A. The camera for looking at the catheter.
21 As it relates to the drip chamber, that's in front of
22 us in the lethal injection room.

23 Q. Is there only one camera?

24 A. There is only one camera that we use for
25 that.

1 Q. How many cameras are there total in the
2 Capital Punishment Unit?

3 A. I don't know the answer to that.

4 Q. Is it more than one?

5 A. There might be. I don't know.

6 Q. How many cameras do you use throughout
7 the execution process?

8 A. Just one.

9 Q. Okay. And that one camera, you mentioned
10 that that allows you to see the IV site; is that right?

11 A. Yes.

12 Q. Okay. And where are you able to view
13 that camera?

14 A. In the lethal injection room.

15 Q. Okay. So are you in the lethal injection
16 room throughout the entire execution?

17 A. Yes.

18 Q. And where is the camera in the execution
19 chamber?

20 A. It's over the gurney.

21 Q. Is it directly over the gurney, or is it
22 set off to an angle?

23 A. It appears to be directly over the gurney
24 from the angle of the monitor.

25 Q. And then that feeds into the lethal

1 injection room? Is that what you're saying?

2 A. Yes.

3 Q. Okay. And did you also mention that the
4 camera zooms?

5 A. It does.

6 Q. What do you mean by that?

7 A. We're able to -- the live view gives you
8 a head-to-toe view of the gurney, and then you can zoom
9 in to any location within that frame.

10 Q. And who controls the zoom?

11 A. The Observer.

12 Q. Do you ever control the zoom?

13 A. Not during executions. I have during
14 training.

15 Q. Approximately how many trainings have you
16 controlled the camera in?

17 A. I don't know. More than five, maybe less
18 than ten.

19 Q. Okay. Why do you practice zooming the
20 camera during some trainings?

21 A. Occasionally, we cross-train positions
22 within the lethal injection room.

23 Q. Okay. So you're training for that in the
24 instance that you might act as the Observer during a
25 real execution?

1 A. Correct.

2 Q. Okay. Does anyone aside from you or the
3 Observer ever control the zoom camera?

4 A. Not that I've seen.

5 Q. Does the Executioner ever control the
6 zoom camera?

7 A. Not that I've seen.

8 Q. Where are the controls located for the
9 zoom camera?

10 A. It's through a computer, in kind of a
11 side part of the lethal injection room.

12 Q. Okay. And when you say "the side part of
13 the lethal injection room," could you describe a little
14 more specifically what you mean by "side part?"

15 A. It's -- it's a small room, so there's not
16 much to describe. It's in kind of the corner, a little
17 adjacent to the observation window.

18 MR. SUTHERLAND: Do you want to have him
19 look at that diagram?

20 MS. LEONARD: Yeah, I was just about to
21 say. Let's -- I believe it's Page 10. Let's have
22 him scroll up to Page 10. I think that might help
23 us here.

24 BY MS. LEONARD:

25 Q. Are you able to rotate that page? And if

1 you need to, zoom in on it. I know it's a little bit
2 hard to read some of the writing on there.

3 A. I think so. I'm oriented now.

4 Okay. So the way the page is oriented, I
5 would say it's in the top right corner of the --

6 Q. Wait, sorry, one second. Let's just make
7 sure we're looking at it the same way. Did you rotate
8 your page so that the writing is the right side up?

9 A. Give me one second. Okay. The writing
10 is in the right side up.

11 Q. Okay. So the blue stamp is at the left
12 side of the page at the bottom?

13 A. It is.

14 Q. Okay. So we're looking at the same page.
15 I just wanted to make sure we're looking at it the same
16 way. I appreciate that.

17 A. So the monitor would be in the bottom
18 right section of that room.

19 Q. And that's where you sit?

20 A. No, that is where the Observer is.

21 Q. Okay. Where do you sit in the lethal
22 injection room?

23 A. I would be on the left side of that room.

24 Q. And are the controls for the camera on
25 the right side, where the Observer sits?

1 A. They are.

2 Q. So if you wanted to control the camera,
3 you would have to essentially switch seats with the
4 Observer?

5 A. Yes.

6 Q. And where is the Executioner located in
7 the lethal injection room?

8 A. Pretty much right in the middle.

9 Q. Okay. And it looks like there's two
10 notches there. Is that for a window?

11 A. It looks like that. Yes, there is a
12 window there.

13 Q. Okay. Is the Executioner able to see out
14 of the window into the execution chamber?

15 A. Yes.

16 Q. Are you able to see out of the window
17 into the execution chamber?

18 A. Not from my position on the left-hand
19 side.

20 Q. All right.

21 A. Actually, I can see out the window, but
22 only about the -- not really the execution chamber
23 itself.

24 Q. What are you able to see from your seat
25 in the lethal injection room through the window?

1 A. Without moving, I can essentially see the
2 victim's family window.

3 Q. And are you able to see into the victim's
4 family room through -- I take it you mean there is a
5 window in their room, as well?

6 A. Right. They're tinted windows. I don't
7 think I can see into it.

8 Q. Okay. You don't think that you can see
9 into it, but you're not sure?

10 A. I can't say I have really looked.

11 Q. I see. Are you able to see the prisoner
12 on the gurney through the window?

13 A. From my location, I can probably see the
14 feet without moving.

15 Q. Okay. Is the Observer able to see the
16 prisoner on the gurney through the window?

17 A. Yes.

18 MR. SUTHERLAND: I'm going to object to
19 what the Observer can see.

20 BY MS. LEONARD:

21 Q. And let's talk about the camera again for
22 a minute while we're here. When you state that the
23 camera is located over the gurney, can you tell me
24 about that with respect to this diagram?

25 A. I don't know exactly where it's located.

1 The view from the monitor appears, and it's right
2 almost centered over the gurney.

3 Q. Okay. Do you ever move to a different
4 location that's not the lethal injection room during an
5 execution?

6 A. Not during the execution, no.

7 Q. Do you ever move around within the lethal
8 injection Executioner's room?

9 A. Yes.

10 Q. At what point do you move?

11 A. Specifically, when the consciousness --
12 consciousness is checked after the two-minute waiting
13 period after administering the midazolam and the saline
14 syringe.

15 Q. Where do you move at that time?

16 A. To a point behind the Executioner where I
17 can observe through the window.

18 Q. Okay. So at that point, you are able to
19 see the prisoner on the gurney?

20 A. Yes.

21 Q. And after the consciousness check is
22 completed, do you move back to your seat on the left
23 side of the Executioner's room?

24 A. Yes.

25 Q. Do you move from that position at any

1 other point during the execution?

2 A. Not during the execution.

3 Q. Okay. And are you able to see the camera
4 monitor from your seat?

5 A. I am.

6 Q. About how many feet away from the camera
7 monitor would you say you are?

8 A. Maybe 6 feet.

9 Q. And roughly how large is that monitor?

10 A. Maybe a 20-inch monitor.

11 Q. 20 inches square?

12 A. It's a rectangular monitor, maybe a
13 20-inch size.

14 Q. Okay. Is that affixed to the wall in the
15 lethal injection room?

16 A. I don't know if it's affixed to the wall
17 or if it's on a stand.

18 Q. Is it on a table or on a stand of some
19 sort?

20 A. I've never looked that hard.

21 Q. Okay. Is the monitor roughly at eye
22 level?

23 A. When standing, yes.

24 Q. So if you are sitting, is it above your
25 eye level?

1 A. Yes.

2 Q. Okay. And just looking at this diagram a
3 little bit, I know that you mentioned that it's in the
4 right corner, the right-hand corner of the lethal
5 injection Executioner's room. Is it right in the
6 corner, or is it farther up along that wall?

7 A. I would say it's right in the corner.

8 Q. Okay. And does it face you, essentially?
9 Does it face the left side of the wall?

10 A. It does. It faces the left side of the
11 wall.

12 Q. Okay. Let's go back to Page 20. You
13 might have to rotate your pages back again.

14 A. Okay.

15 Q. Duty 5 says "To make sure the IV lines
16 are flowing properly." What do you do to carry out
17 this duty?

18 A. I'm trying to distinguish it from No. 4.
19 During the administration of the chemicals,
20 I don't make sure that the IV lines are flowing properly.

21 Q. You do not do that?

22 A. That is not mine.

23 Q. Does another member of the IV Team do
24 that?

25 A. I would say the Executioner and the

1 Observer do that.

2 Q. Okay. But you've never done that during
3 an execution?

4 A. No.

5 Q. And Item 6 says: "To document the
6 execution of the LICs on the Lethal Injection Chemical
7 Administration Sheet." Do you do this duty?

8 A. I do.

9 Q. Does anyone else ever complete this duty?

10 A. Only in training, as I described earlier
11 when we kind of cross-train roles.

12 Q. Who fills out this sheet during training?
13 MR. SUTHERLAND: Without identifying a
14 name.

15 THE WITNESS: No, sir.

16 The Observer has and the Executioner has.

17 BY MS. LEONARD:

18 Q. Has the Executioner ever filled out this
19 sheet during an actual execution?

20 A. Not that I've been a part of.

21 Q. So it's always been only you that has
22 filled out this record sheet during the actual
23 execution?

24 A. Since I've been a member of the IV Team,
25 yes.

1 Q. How long have you been a member of the IV
2 Team?

3 A. Since 2016.

4 Q. Okay. Let's take a look at Exhibit 54,
5 five-four.

6 A. Okay.

7 Q. Is this a Lethal Injection Chemical
8 Administration Record Sheet that is identified on Page
9 20 of the protocol?

10 A. Yes.

11 Q. Is this your handwriting?

12 A. That is not.

13 Q. Did you fill this out?

14 A. No.

15 Q. All right. Without identifying the
16 person, who did fill this out?

17 A. I'm not -- I'm not sure.

18 Q. Let's take a look at Exhibit 52,
19 five-two.

20 A. Okay.

21 Q. It sounds like this is not the Lethal
22 Injection Chemical Administration Record Sheet
23 identified on Page 20 of the protocol; is that right?

24 A. That's correct.

25 Q. Is this your handwriting?

1 A. It is not.

2 Q. So you did not fill this out?

3 A. I have not completed that checklist
4 before.

5 Q. Have you ever filled out this checklist
6 for any execution?

7 A. No.

8 Q. Have you ever filled out this checklist
9 for any training?

10 A. No.

11 Q. Let's jump back to the protocol,
12 Exhibit 1.

13 A. Okay.

14 Q. Page 15, one-five.

15 A. Okay. I'm there.

16 Q. Okay. This is page that describes the
17 duties for the Lethal Injection Recorder; and in Item
18 3, it says "To complete the Lethal Injection and
19 Execution Recorder Checklist." Do you see that?

20 A. I do.

21 Q. So if we go back to Exhibit 52; is
22 Exhibit 52, is this the Lethal Injection and Execution
23 Recorder Checklist that's identified on Page 15 of the
24 protocol?

25 A. Yes.

1 Q. Okay. Let's pull up Exhibit 55.

2 A. Okay.

3 Q. Have you seen this sheet before?

4 A. I have.

5 Q. Do you fill this out?

6 A. I do.

7 Q. Does anyone else ever fill this out?

8 A. Yes. Not during executions, but in
9 training; same as the chemical administration.

10 Q. Okay. So you are the only person that
11 has ever filled this out for an actual execution since
12 2016?

13 A. Correct.

14 Q. Okay. So during trainings, it might be
15 the Observer?

16 A. It has been.

17 Q. And it can also be the Executioner during
18 trainings?

19 A. It could be.

20 Q. Okay. Let's pull up Exhibit 44.

21 A. All right.

22 Q. This says at the top, "Chemical
23 Preparation Timesheet." Have you seen this sheet
24 before?

25 A. I have.

1 Q. Do you fill out this sheet?

2 A. I do.

3 Q. Is this your handwriting on this exhibit?

4 A. It looks like my handwriting.

5 Q. Okay. So did you fill out this
6 particular log that we're looking at, this exact log?

7 A. It looks like my handwriting, so I would
8 say I probably did.

9 Q. Okay. And did you record this while the
10 preparation was actually happening?

11 A. Yes.

12 Q. Okay. You didn't record this at a later
13 time, afterwards?

14 A. No, during -- when the preparation
15 occurred.

16 Q. Did you consult with anyone while
17 completing this log?

18 A. No.

19 Q. Does anyone else fill out this Chemical
20 Preparation Timesheet?

21 A. Occasionally, during training.

22 Q. And so would that be -- let me ask it a
23 different way. I'm going to try to be a little bit
24 clearer.

25 Do you keep multiple copies of this

1 Chemical Preparation Timesheet?

2 A. No.

3 Q. So there's only one person who fills out
4 the Chemical Preparation Timesheet for an execution?

5 A. That I'm aware, yes. It doesn't happen
6 anywhere else.

7 Q. Okay. And does it ever happen during
8 training that more than one person fills out more than
9 one of these?

10 A. Not that I'm aware of.

11 Q. Okay. How many people witness the
12 preparation of each set of chemicals?

13 A. The Executioner. There's three.

14 Q. Would that be you, the Executioner, and
15 the Observer?

16 A. Yes.

17 Q. Okay. And it looks here that Page 1 of
18 Exhibit 44 says "Red" at the top and Page 2 says
19 "Blue." Do those colors refer to each set of
20 chemicals?

21 A. They do. My Exhibit 44 only has one set.

22 MR. SUTHERLAND: Same with mine.

23 MS. LEONARD: Okay. We can loop back
24 with that. I thought I pulled these off the FPE
25 site yesterday. Let's see. That was maybe

1 marked. I'll check that on here.

2 BY MS. LEONARD:

3 Q. Is each set of syringes prepared by a
4 separate person?

5 A. When you say "set," do you mean the red
6 and blue set?

7 Q. Yes.

8 A. No, they are prepared by the same person.

9 Q. Okay. Who does that, without giving me
10 that person's name?

11 A. The Executioner prepares the syringes.

12 Q. Is it always the same person who prepares
13 both sets of the syringes for an execution?

14 A. It has been in the executions I've
15 attended.

16 Q. Okay. No other person other than the
17 Executioner has ever prepared a set of syringes in an
18 execution you've participated in?

19 A. Correct.

20 Q. Okay. Let's jump back to Page 10 of
21 Exhibit 1. This is the diagram we were just looking at
22 earlier.

23 A. Okay.

24 Q. Okay. Great. You stated that during the
25 execution you were in the lethal injection

1 Executioner's room the entire time; is that right?

2 A. While the execution is being carried out,
3 yes.

4 Q. All right. How many people, total, are
5 in that room?

6 A. Usually, three.

7 It may have been four during an
8 execution.

9 Q. Without disclosing the identities, what
10 are the roles of each of these three or four total
11 people?

12 A. The Executioner, the role I have, the
13 Observer, and I would say the other is just an
14 additional Observer. There have been multiple people
15 trained for these roles.

16 Q. When you say "multiple," roughly how many
17 people have been trained for these roles?

18 A. In the lethal injection room, four.

19 Q. So four people have been trained for the
20 role specific to the lethal injection room?

21 A. Yes, that I know of.

22 Q. Okay. During the execution, who is in
23 the execution chamber while the drugs are being
24 administered?

25 A. While the drugs are being administered,

1 it's the Warden and the Associate Warden.

2 Q. Okay. And you stated that you never
3 enter the execution at any -- the execution chamber,
4 I'm sorry, at any point in the execution?

5 A. Not while the execution is being carried
6 out.

7 Q. Okay. Do you enter the execution chamber
8 to insert IV lines?

9 A. Not to insert IV lines.

10 Q. Do you enter the execution chamber to
11 attach the solution set?

12 A. No.

13 Q. Who inserts the IV lines, without giving
14 me a name?

15 A. It would be the EMT connects the lines.

16 Q. The EMTs?

17 A. Uh-huh.

18 Q. Is it only one EMT?

19 A. I don't remember.

20 Q. Do you watch the insertion of the IV
21 lines from the lethal injection room?

22 A. From -- from my position I can observe a
23 monitor, which at that time is usually zoomed in to the
24 injection site.

25 Q. Okay. Who attaches the solution set from

1 the bag of saline to the catheter, without giving me
2 the name of that person?

3 A. I believe it's the EMT.

4 Q. And is that more than one EMT?

5 A. I don't know.

6 Q. How many EMTs total are in the execution
7 chamber?

8 MR. SUTHERLAND: Objection to the form.

9 THE WITNESS: I don't remember if it's
10 two or three.

11 BY MS. LEONARD:

12 Q. Okay. What is the approximate distance
13 between the gurney and the lethal injection
14 Executioner's room?

15 A. Not more than a few feet. Maybe three to
16 four.

17 Q. Okay. And you mentioned before that this
18 is a tinted window?

19 A. It has some kind of tint or reflection to
20 keep from seeing in.

21 Q. Okay. So the people in the lethal
22 injection -- injection room are able to see out into
23 the execution chamber, but not the other way around?

24 A. Correct.

25 Q. Are there ports in that window that allow

1 the tubing to connect from the Executioner's room to
2 the execution chamber?

3 A. It's not in the window, it's in the wall.

4 Q. Okay. How many ports are there?

5 A. There's one.

6 Q. And about how big is that port?

7 A. Maybe a 6-by-6-inch port.

8 Q. Can you see through the port?

9 A. If you were seated, you could probably
10 see through it.

11 Q. On this diagram, where is that port
12 located?

13 A. Let me reorient the page. So with the
14 blue to the left of the page, I would say it's
15 approximately where the last line is indicating the
16 window, maybe slightly to the right of that.

17 Q. Okay. So is it underneath the window?

18 A. I think it's to the side of the window
19 and maybe slightly below.

20 Q. All right. And that's the side that
21 you're sitting on; is that correct?

22 A. Correct.

23 Q. And about how high is that, with respect
24 to you? So if you're sitting down, is it below knee
25 level or is it high?

1 A. So I don't -- it's a small room. I don't
2 sit in that position. I would say it's probably waist
3 level when I'm standing.

4 Q. Okay. And when is the zoom camera turned
5 on?

6 A. It's turned on prior to the execution to
7 ensure it's functioning properly and so forth, but....

8 Q. How -- how long in advance of the
9 execution is it turned on?

10 A. Maybe an hour to two hours before.

11 Q. Are there multiple feeds on the monitor?

12 A. I don't know.

13 Q. What I mean by that is when you look at
14 the monitor are you only able to see one view at a
15 time, or does it show you multiple images at the same
16 time?

17 A. I'm not sure of its capabilities. We
18 only have one screen open.

19 Q. Okay. So you only ever see one view at a
20 time on that monitor?

21 A. Correct, that's all I see.

22 Q. Okay. Are you able to hear what goes on
23 in the execution chamber while you are in the
24 Executioner's Room?

25 A. I can when the audio is turned on.

1 Q. When is the audio turned on?

2 A. I don't recall the exact moment.

3 Q. Is the audio turned on at some point
4 during the execution?

5 A. I believe so.

6 Q. So that's not turned on ahead of time,
7 like the zoom camera?

8 A. Not that I recall. We don't control the
9 audio. We do control the zoom camera from the lethal
10 injection room.

11 Q. Who controls the audio, without giving me
12 the name?

13 A. It's controlled in the control room.

14 Q. Okay. And is the audio turned off at
15 some point during the execution?

16 A. The audio is turned off. The audio
17 starts off and is turned on.

18 Q. Okay. And then after that, does it
19 remain on for the entire rest of the execution?

20 A. I don't recall.

21 Q. So is everyone who is in the lethal
22 injection room able to hear what is going on through
23 that audio system?

24 A. Yes.

25 Q. Are you able to hear through the window

1 at all?

2 A. No.

3 Q. Okay. So you --

4 A. It'd have to be a loud noise to hear.

5 Q. I see. So if the audio is turned off,
6 you would not be able to hear what is going on in the
7 Executioner's chamber?

8 A. Correct.

9 Q. Okay.

10 A. You might hear something muffled, at
11 most.

12 MS. LEONARD: Okay. This might be a good
13 point for a quick break. And if you could take a
14 look at that Exhibit 44 to make sure that we've
15 got the same -- that we're looking at the same
16 pages here.

17 THE WITNESS: Okay.

18 THE VIDEOGRAPHER: We are off the record
19 The time is 11:20 a.m.

20 (Recess at 11:20 a.m. to 11:34 a.m.)

21 THE VIDEOGRAPHER: We're back on record
22 at 11:34 a.m.

23 BY MS. LEONARD:

24 Q. All right. IV Team Member, I am going to
25 ask you to pull up Exhibit 65. You may already have

1 that in front of you.

2 A. I do.

3 Q. And is this a Chemical Preparation
4 Timesheet dated 4/14/21?

5 A. It is.

6 Q. Is this your handwriting?

7 A. It is not.

8 Q. So did you -- you did not fill out this
9 particular log?

10 A. I did not.

11 Q. Okay. Without identifying anyone, do you
12 know what -- who might have filled this out?

13 A. I'm not sure.

14 Q. And I don't mean to repeat the questions
15 from earlier, but we had a bit of a snafu with the
16 exhibit. Does this one have a first page?

17 A. It does.

18 Q. Okay. And so the first page says "Red"
19 and the second says "Blue?"

20 A. I see that.

21 Q. And I believe you said before that only
22 one person prepares both of the sets; is that right?

23 A. That's correct.

24 Q. Is that the Executioner?

25 A. Yes.

1 Q. Okay. And if you look at Page 1 and then
2 you look at Page 2, it looks like the times are the
3 same; is that right?

4 A. It does look that way.

5 Q. It says "12:45, 12:48, 12:50, and 12:55,"
6 respectively, on both pages?

7 A. Yes.

8 Q. How is the Executioner able to prepare
9 both sets of the chemicals at exactly the same time?

10 A. The Executioner isn't able to.

11 Q. He is not able to?

12 A. Not in my estimation.

13 Q. So what is the information on this sheet
14 reflecting?

15 MR. SUTHERLAND: I'm going to object to
16 the form, based on his prior answer.

17 THE WITNESS: I don't know.

18 BY MS. LEONARD:

19 Q. Okay. Have you been involved in prior
20 executions?

21 A. Not prior to 2016.

22 Q. Okay. Have you been involved in
23 executions between 2016 and today?

24 A. Yes.

25 Q. How many total executions?

1 A. I don't remember, but I've been involved
2 in all of the executions carried out here since 2016.

3 Q. And where is "here?"

4 A. In Tennessee.

5 Q. Okay. You've been involved in every
6 execution that's happened in Tennessee since 2016?

7 A. That's correct.

8 Q. Have all those executions taken place
9 after Riverbend?

10 A. Yes.

11 Q. Have you provided training to anyone in
12 conjunction with these executions?

13 A. No, I don't conduct training.

14 Q. Do you receive compensation for your work
15 as an IV Team Member?

16 A. No.

17 Q. Is there a time certain at which you will
18 no longer be an IV Team Member?

19 A. Not a designated time.

20 Q. So you continue in this role
21 indefinitely?

22 A. Yes, unless I or someone else chooses
23 otherwise.

24 Q. Okay. Do you hold any other roles aside
25 from IV Team Member in Tennessee's execution protocol?

1 A. No.

2 Q. So every execution you've participated in
3 has been as an IV Team Member?

4 A. Correct.

5 Q. And have you always been the Recorder
6 specifically in all of those executions?

7 A. I have.

8 Q. Do you also participate in electric chair
9 executions?

10 A. I do.

11 Q. In what capacity do you participate in
12 those executions?

13 A. I conduct recording functions for that,
14 as well.

15 Q. Okay. So you are not a member of the IV
16 Team, I take it, there because there is no IV Team?

17 A. Yes. I should have clarified that.

18 Q. But you are a Recorder?

19 A. I am.

20 Q. Okay. How many electric chair executions
21 have you participated in?

22 MR. SUTHERLAND: Object to the form,
23 based on his prior answer.

24 THE WITNESS: I don't recall the number.

25 BY MS. LEONARD:

1 Q. It was more than one?

2 A. It was -- yes, it was. I've been
3 involved in all electric chair executions since 2016
4 for TDOC, as well.

5 Q. Okay. Were you an IV Team Member who
6 participated in Donnie Johnson's execution on May 16th,
7 2019?

8 A. Yes.

9 Q. Were you involved in that execution in
10 any other capacity?

11 A. No.

12 Q. Where were you located during that
13 execution?

14 A. In the IV -- the lethal injection room.

15 Q. Okay. And consistent with your previous
16 answers, you never moved to any other space in the
17 Capital Punishment Unit -- Punishment Unit while the
18 execution was taking place?

19 A. Not while the execution was taking place.

20 Q. How many total people were inside the
21 lethal injection Executioner's room during Donnie
22 Johnson's execution?

23 A. I think it was four.

24 Q. So that would include you, the
25 Executioner, the Observer, and the additional Observer

1 you mentioned earlier?

2 A. Correct. I don't recall if that person
3 was still working with TDOC during that execution. If
4 they were, they would have been present.

5 Q. When you say "that person," are you
6 referring to the additional Observer?

7 A. Yes, ma'am.

8 Q. Okay. And that person subsequently left
9 TDOC?

10 A. Correct.

11 Q. Okay. I understand.

12 Were Mr. Johnson's fingers taped to the
13 gurney during the execution?

14 A. Yes.

15 Q. Why?

16 A. Protocol defines that the hands are
17 taped.

18 Q. Did you observe any movement of
19 Mr. Johnson's fingers during the execution?

20 A. No.

21 Q. What did you observe during the
22 execution?

23 A. I observed the administration of the
24 chemicals, and I observed the consciousness check
25 performed by the Warden.

1 Q. And you made both of those observations
2 from inside of the lethal injection Executioner's room?

3 A. That's correct.

4 Q. And so the chemical administration I take
5 it is taking place live, in front of you, in the
6 Executioner's room; is that right?

7 A. Yes.

8 Q. And then you're observing the
9 consciousness check using the zoom camera we discussed
10 earlier?

11 A. Yes. I may have moved to behind the
12 Executioner to observe. I frequently do that during
13 training.

14 Q. Why do you move over there?

15 A. To observe the check visually, as opposed
16 to through a camera.

17 Q. So that you're able to see through the
18 window?

19 A. Yes, yes.

20 Q. Okay. And when you move over, do you
21 watch through the window or do you watch on the
22 monitor?

23 A. Probably through the window mostly, but
24 it's -- you can see both at the same time.

25 Q. During the consciousness check, what can

1 you see on the monitor?

2 A. I believe it's -- I don't remember the
3 view. I think it was zoomed out to a wide angle.

4 Q. And when you say "zoomed out to a wide
5 angle," could you see the prisoner's entire body?

6 A. Yes.

7 Q. Okay. Could you see anything else in the
8 execution chamber aside from the gurney?

9 A. Not on the monitor.

10 Q. Okay. Could you see the entire execution
11 chamber through the window?

12 A. It's a pretty narrow view. You can see
13 most of the execution chamber.

14 Q. What part of the execution chamber can
15 you not see through the window?

16 A. From the lethal injection room, looking
17 out into the execution chamber, I'd say kind of the
18 right corner, closest, you can't see over there. You
19 can see the entirety -- you can see most of the gurney
20 through the window at another angle.

21 Q. And you mentioned that the window is
22 pretty narrow. Roughly how many feet wide is the
23 window?

24 A. I'm not sure.

25 Q. Is it 3 feet, perhaps?

1 A. No, it's smaller than that.

2 Q. Maybe 2 feet?

3 A. Maybe. Maybe less.

4 Q. Is it at least 1 foot?

5 A. I don't remember. Seems like -- I'm
6 trying to visualize it now. It's not the position I
7 stand in directly, so there's someone standing in front
8 of me.

9 Q. And the Executioner is the person
10 standing in front of you at that point?

11 A. Correct.

12 Q. It sounds like it's a pretty small
13 window. Is it possible for both you and the
14 Executioner to see out of the window at the same time?

15 A. If we positioned ourselves to do so, we
16 probably could.

17 Q. Have you ever actually done that during
18 an execution?

19 A. I don't remember. I think so.

20 Q. During Donnie Johnson's execution, when
21 you were looking out the window was the Executioner
22 also looking out the window?

23 A. The Executioner's the primary person
24 looking out the window. If anyone else is, it's in
25 addition.

1 Q. So there was never a point where you were
2 looking out the window but the Executioner was not?

3 A. Correct.

4 Q. And does the Observer also look out the
5 window?

6 MR. SUTHERLAND: Objection to the form.

7 THE WITNESS: I suppose they could. I
8 don't know for sure.

9 BY MS. LEONARD:

10 Q. Roughly how big is the lethal injection
11 Executioner's room?

12 A. Maybe -- gosh, I don't know. Maybe 10
13 feet by 5 feet.

14 Q. Okay. And you mentioned before it's
15 pretty small. I agree it seems like a cozy space.

16 A. It is that.

17 Q. And when you have a fourth IV Team Member
18 there, where does that individual stand or sit in the
19 room?

20 A. Pretty much behind the Executioner,
21 standing.

22 Q. Okay. Was a second dose of midazolam
23 prepared during Donnie Johnson's execution?

24 A. You mean for the second set, like the
25 blue set?

1 Q. Right.

2 A. I believe so.

3 Q. Were you involved in any of the practice
4 sessions leading up to this execution?

5 A. Yes.

6 Q. Roughly when did those practice sessions
7 take place with respect to the execution?

8 A. Maybe the two to three weeks prior to the
9 execution date.

10 Q. Okay. And how many practice sessions
11 took place in that two- to three-week period?

12 A. Maybe four to six.

13 Q. And roughly how long did each of those
14 sessions last?

15 A. Probably an hour and a half to two hours.

16 Q. What happened during those practice
17 sessions?

18 A. During those practice sessions --

19 MR. SUTHERLAND: Objection to form.

20 THE WITNESS: -- we carry out the portion
21 of the protocol. I don't know how to say it.
22 It's -- essentially, it's the portion of that
23 protocol where the execution is carried out. We
24 simulate it.

25 BY MS. LEONARD:

1 Q. Okay. Did you measure the rate of the
2 injection of midazolam during Johnny -- Donnie
3 Johnson's execution?

4 A. I don't understand what you mean.

5 Q. Do you ever measure the rate of injection
6 of the drugs during an execution?

7 A. How do you mean, "measure the rate of
8 injection?"

9 Q. Are you aware that there is something
10 called a push rate for chemical drugs?

11 A. I've heard that, yes.

12 Q. What's your understanding of a push rate?

13 A. Not much more than what you just said.

14 Q. Okay. Do you know whether there is an
15 appropriate push rate for each of the drugs used in
16 executions in Tennessee?

17 A. I don't know.

18 Q. Okay. Let's look at Exhibit 62.
19 Hopefully, we all have the same exhibit.

20 A. I do.

21 Q. Okay. Does this say "Chemical
22 Preparation Timesheet, Date 5/16/19" at the top?

23 A. It does.

24 Q. Okay, great. Have you seen this sheet
25 before?

1 A. I have.

2 Q. Is this your handwriting?

3 A. It looks like my handwriting.

4 Q. So do -- did you fill out this particular
5 log?

6 A. Yes, it seems likely.

7 Q. Okay. Do you have two pages of this that
8 shows the red on the first page and blue on the second
9 page?

10 A. I do.

11 Q. Okay. Great. On the -- on the first
12 page it shows for the red set, that being midazolam,
13 was prepared at 9:20. Is that what you're seeing?

14 A. Yes.

15 Q. 1920, excuse me. So 7:20 p.m.?

16 A. Yes.

17 Q. And it looks like the other drugs were
18 prepared roughly two hours earlier: 1724, 1729, and
19 1706. Is that what you see on the log?

20 A. Yes.

21 Q. Okay. Why was the midazolam prepared
22 about two hours later than the other drugs?

23 A. The midazolam is a compounded chemical in
24 that execution, and the instructions from the
25 compounding pharmacist describe how -- the timelines

1 for the storage and use. And I believe it was one hour
2 from the time it's drawn into the syringe, so we
3 prepared that one later.

4 Q. What happens one hour after the midazolam
5 is prepared?

6 A. I don't understand the question.

7 Q. I'm just trying to understand. You said
8 you spoke with the pharmacist; is that right?

9 A. I didn't. I have not spoken to the
10 pharmacist.

11 Q. Okay. So someone else spoke with the
12 pharmacist, and the reason for the delay in preparing
13 the midazolam has to do with the compounding?

14 MR. SUTHERLAND: I'm going to object to
15 the form, to the way the question was asked.

16 THE WITNESS: It's my understanding that
17 the chemical was to be used within one hour of
18 being drawn into the syringe.

19 BY MS. LEONARD:

20 Q. Okay.

21 A. It's my understanding that came from the
22 pharmacist's instruction.

23 Q. Gotcha. And why is it that it must be
24 used in one hour?

25 A. I don't know.

1 Q. Okay. Let's look at Exhibit 63.

2 A. Okay.

3 Q. Does this say "Date of Execution --
4 Lethal Injection Execution Recorder Checklist" at the
5 top?

6 A. Yes.

7 Q. For Donnie Johnson, date 5/16/2019?

8 A. Yes.

9 Q. Okay. Is it your handwriting?

10 A. It is not.

11 Q. So you did not prepare this particular
12 log?

13 A. Correct.

14 Q. If you scroll down to Page 4, if you're
15 looking at that electronically, 4 of the PDF in this
16 same exhibit.

17 A. All right.

18 Q. This appears to be a copy of the same
19 sheet; is that right?

20 A. It appears that way.

21 Q. So it's also a Day of Execution -- Lethal
22 Injection Recorder Checklist for Donnie Johnson's
23 execution on 5/16/19?

24 A. Yes.

25 Q. But it looks like the handwriting is

1 different on this list. Is this your handwriting?

2 A. It is not.

3 Q. So you did not fill out this particular
4 form, either?

5 A. I did not.

6 Q. Okay. And then if you scroll down to
7 Page 7 of the PDF, it says again, "Day of Execution --
8 Lethal Injection Execution Recorder Checklist" for
9 Donnie Johnson, 5/16/19?

10 A. Yes.

11 Q. And it looks like it's different
12 handwriting. Is that your handwriting?

13 A. It is not.

14 Q. So you did not fill out this particular
15 log, either?

16 A. No.

17 Q. Who filled out these logs, without giving
18 me any names?

19 A. I don't know.

20 Q. Is it part of your duties as the Recorder
21 to fill out these logs?

22 A. Not this log, no.

23 Q. Okay. And on Exhibit 63, the same one
24 we're looking at now, if you bounce back to Page 2.

25 A. Okay.

1 Q. About a quarter of the way down the list
2 it says "1919, Warden orders Execution Team to
3 proceed." Do you see that?

4 A. Yes.

5 Q. And I'm sorry to make you flip between
6 exhibits here; but on Exhibit 62, the one we just
7 looked at, the Chemical Preparation Timesheet --

8 A. Yes.

9 Q. -- we saw that the midazolam was prepared
10 at 1920?

11 A. Correct.

12 Q. So that looks like the midazolam was
13 prepared right after or right around the same time that
14 the Warden ordered the Execution Team to proceed; is
15 that right?

16 A. That's correct.

17 Q. And why was that chosen as the time to
18 prepare the midazolam?

19 MR. SUTHERLAND: I'm sorry, Lynne, where
20 are you?

21 MS. LEONARD: Looking at Exhibit 63,
22 about a quarter of the way down Page 2. It says
23 "1919, Warden ordered Execution Team to proceed."

24 BY MS. LEONARD:

25 Q. IV Team Member, would it be helpful if I

1 repeated the question?

2 A. Yes.

3 Q. Okay. So on Exhibit 62, it says that
4 midazolam was prepared at 1920. Exhibit 63 shows that
5 the Warden ordered the Execution Team to proceed at
6 1919. And my question is: Why is it that the
7 midazolam was prepared at that point?

8 A. Because at that point --

9 MR. SUTHERLAND: Objection. Object to
10 the form. You can answer.

11 THE WITNESS: Yes, sir.

12 At that point, there -- there would be no
13 more stopping the execution. Earlier times to
14 prepare, if there were a delay, it might impact
15 that one-hour timeframe.

16 BY MS. LEONARD:

17 Q. Okay. I see. Is this a deviation from
18 the protocol?

19 MR. SUTHERLAND: Object to the form.

20 THE WITNESS: I don't think the protocol
21 specifies when, what exact time it's prepared.

22 BY MS. LEONARD:

23 Q. Does the protocol specify an order in
24 which the drugs are supposed to be prepared?

25 A. I don't know if it specifies the order.

1 It specifies how they're prepared.

2 Q. It specifies how they're prepared but not
3 the time?

4 A. I don't -- I don't know that it specifies
5 the time.

6 Q. Do you practice this delay in preparing
7 midazolam during training sessions?

8 A. We do.

9 Q. Do you do that in every training session?

10 A. Every training session that I've
11 attended.

12 Q. Okay. Let's bounce back to Exhibit 65.

13 A. Okay.

14 Q. This is the Chemical Preparation
15 Timesheet dated 4/14/21.

16 A. Uh-huh.

17 Q. It looks here like the midazolam was
18 prepared before the rest of the drugs; is that right?

19 A. The time would seem to indicate so.

20 Q. Okay. So at least in that practice
21 session the team did not practice the delay in drawing
22 up the midazolam. Is that what this shows?

23 A. That's what it seems to show.

24 Q. Okay. And you filled out this sheet?

25 A. No.

1 Q. You did not fill out this sheet?

2 A. No, that's not my handwriting.

3 Q. Okay. And you do not know who did fill
4 out the sheet?

5 A. I don't.

6 Q. Okay. Were you an IV Team Member who
7 participated in Billy Ray Irick's execution on August
8 29, 2018?

9 A. I was.

10 Q. Were you involved in the execution in any
11 other capacity?

12 A. No.

13 Q. Where were you located during Billy Ray
14 Irick's execution?

15 A. In the same position.

16 Q. In the Executioner's room?

17 A. Yes.

18 Q. And you never left the Executioner's room
19 during that execution?

20 A. Correct.

21 Q. How many total people were inside the
22 Executioner's room during Billy Ray Irick's execution?

23 A. Four.

24 Q. Four total people, including yourself?

25 A. Yes.

1 Q. And was that, again, the same people as
2 Mr. Johnson's execution? So you as the Recorder,
3 another IV Team Member as Observer, another IV Team
4 Member as an additional Observer, and then the
5 Executioner?

6 A. Yes.

7 Q. Okay. Were Mr. Irick's fingers taped to
8 the gurney during his execution?

9 A. They were.

10 Q. Why?

11 A. Because protocol requires that to take
12 place.

13 Q. Okay. Did you observe any movement of
14 Mr. Irick's fingers during the execution?

15 A. I did not.

16 Q. Did you prepare the lethal injection
17 chemicals for Mr. Irick's execution?

18 A. No, the Executioner prepares them.

19 Q. Okay. Did you observe the Executioner
20 preparing the chemicals for Mr. Irick's execution?

21 A. I did.

22 Q. Let's pull up Exhibit 58.

23 A. Okay.

24 Q. This should say at the top, "Lethal
25 Injection Chemical Administration Record," and it's for

1 Billy Ray Irick, 8/9/18. Is that what you're looking
2 at?

3 A. Yes.

4 Q. Okay. Is this your handwriting?

5 A. It is.

6 Q. So did you prepare this particular log?

7 A. I did.

8 Q. Okay. Did you complete this log during
9 the execution?

10 A. Yes.

11 Q. So you recorded it in live time, as the
12 preparation was happening?

13 A. Yes.

14 Q. Was a second dose of the midazolam
15 prepared during Mr. Irick's execution?

16 A. It was not.

17 Q. Why not?

18 A. That was the first execution that we used
19 compounded midazolam. We drew up -- upon the order to
20 proceed, drew up the first set of midazolam and didn't
21 prepare the blue set at that time.

22 Q. Is this a deviation from the protocol?

23 A. Not to my understanding.

24 Q. Does the protocol require you to prepare
25 both sets of midazolam?

1 A. Yes.

2 Q. So who authorized -- without giving me a
3 name, who said it was okay to not prepare both sets of
4 midazolam?

5 MR. SUTHERLAND: Objection to the form.
6 You can answer.

7 THE WITNESS: I don't know that we were
8 given authorization.

9 BY MS. LEONARD:

10 Q. And when you say "we," are you referring
11 to the individuals in the Executioner's room?

12 A. Correct.

13 Q. Okay. So who in that room -- again, not
14 a name; but who in that room decided not to prepare a
15 second set of chemicals?

16 A. The Executioner prepares the chemicals.
17 I -- I can't say if it was decided beyond that.

18 Q. What is the purpose of preparing a second
19 set of chemicals?

20 A. As a backup to the primary set, there are
21 contingencies for if the first line doesn't have a good
22 flow to it once administration begins.

23 And also if a consciousness check indicates
24 a need to move to the second set.

25 Q. Okay. So given that there was no second

1 set, what would you have done if Mr. Irick had still
2 been conscious following injection of the first set?

3 A. The same as with the first set. Upon the
4 signal to change, drawn those 5-milliliter vials of
5 midazolam.

6 Q. So you would have prepared the second set
7 at that time, if needed?

8 A. We would have completed the preparation,
9 yes.

10 Q. Okay. And does the protocol require you
11 to prepare both sets ahead of the execution?

12 A. I don't know if it says that
13 specifically.

14 Q. Okay. Let's look at Exhibit 57.

15 A. All right.

16 Q. This says "Day of Execution -- Lethal
17 Injection Execution Recorder Checklist" for Billy Ray
18 Irick, 8/9/2018. Is that what you're seeing?

19 A. Yes.

20 Q. Okay. Did you prepare this particular
21 log?

22 A. I did not.

23 Q. Without giving me a name, who did prepare
24 this log?

25 A. I don't know.

1 Q. Is --

2 A. It's prepared somewhere else.

3 Q. Somewhere else in the Capital Punishment
4 Unit?

5 A. Yes.

6 Q. Is this your first time ever seeing this
7 log?

8 A. This log for this execution, yes.

9 Q. Okay. And the same situation as we
10 looked at for Mr. Johnson; if you scroll down to Page
11 4, it looks like there's an identical sheet that's
12 filled out with different handwriting. Is that your
13 handwriting?

14 A. No, it's not.

15 Q. And then on Page 7, same thing; it's a
16 third identical sheet with yet another set of
17 handwriting. And is this your handwriting?

18 A. It is not.

19 Q. And you've never seen any of these
20 sheets?

21 A. No.

22 Q. Okay. Is this the sheet, the one we
23 discussed earlier, that's filled out by the Lethal
24 Injection Recorder?

25 A. That's my understanding.

1 Q. Okay. Were you involved in any of the
2 practices leading up to Mr. Irick's execution?

3 A. Yes.

4 Q. And when did those practices take place,
5 roughly?

6 A. Roughly, two to three weeks prior to the
7 execution.

8 Q. And how many total sessions happened in
9 that two- to three-week period?

10 A. I would say between four and six.

11 Q. Okay. So the same as Mr. Johnson; it was
12 also similarly about an hour and a half to two for each
13 session?

14 A. As best I recall, yes.

15 Q. Okay. What did you observe during
16 Mr. Irick's execution?

17 A. I observed the Executioner --

18 MR. SUTHERLAND: Objection to the form.

19 Objection to the form. You can answer.

20 THE WITNESS: I observed the
21 administration of the chemicals, and as well as
22 the consciousness check.

23 BY MS. LEONARD:

24 Q. Okay. And did you see Mr. Irick move
25 during the consciousness check?

1 A. No.

2 Q. Did you see him move in reaction to
3 administration of any of the drugs?

4 A. No, I -- during the administration of the
5 drugs, I'm not in a position to see.

6 Q. Okay. So you were not watching the
7 camera at that time?

8 A. No.

9 Q. And you were not looking out the window
10 at that time?

11 A. No.

12 Q. What are you watching when the drugs are
13 administered?

14 A. The Executioner and the handling of the
15 syringes, and then the administration sheet.

16 Q. Okay. Do you recall Mr. Irick snoring
17 during the execution?

18 A. Yes.

19 Q. Do you remember him breathing heavily?

20 A. No that I recall. It was -- I recall
21 heavy breathing -- heavy snoring. I apologize.

22 Q. You recall the snoring but not the heavy
23 breathing?

24 A. Correct.

25 Q. Okay. Do you recall any coughing or

1 choking?

2 A. No.

3 Q. Do you recall whether Mr. Irick turned
4 any colors?

5 A. Not that I recall.

6 Q. After the consciousness check, do you
7 ever look in the execution chamber at any other point
8 during the execution?

9 A. Not during the execution, no.

10 Q. Okay. So what do you look at during the
11 rest of the execution and after the consciousness
12 check?

13 A. I go back to my position and monitor the
14 additional administration of the chemicals and the log.

15 Q. Okay. Let's talk a little bit more about
16 those chemicals. I'm going to flip back to the
17 protocol, Exhibit 1.

18 A. Okay.

19 Q. And this time we're going to go down to
20 Page 34.

21 A. Okay.

22 Q. I'm having a rotation problem.

23 So this should say at the top, "Chemicals
24 Used in Lethal Injection."

25 A. Yes.

1 Q. And it's got three chemicals listed
2 there: midazolam, vecuronium bromide, and potassium
3 chloride, and then the amounts for each. What is your
4 understanding of the purpose for using each of these
5 drugs?

6 MR. SUTHERLAND: Objection to the form.

7 THE WITNESS: To render the individual
8 unconscious, to stop breathing, and to essentially
9 stop the heartbeat.

10 BY MS. LEONARD:

11 Q. Okay. And I apologize, I asked the
12 question unclearly. But I take it you mean that the
13 purpose of midazolam, and then vecuronium bromide, and
14 then potassium chloride respectfully?

15 A. That's my understanding.

16 Q. And it also says on this page the amount
17 of each dose. How is that amount determined?

18 A. I don't know.

19 MR. SUTHERLAND: Objection to the form.

20 BY MS. LEONARD:

21 Q. Without giving me a name, who made that
22 determination?

23 MR. SUTHERLAND: Same objection.

24 THE WITNESS: I don't know that, either.

25 BY MS. LEONARD:

1 Q. You mentioned earlier that others on the
2 team had spoken with a pharmacist; is that right?

3 A. Yes, somebody else has.

4 Q. Okay. Have you ever spoken with a
5 pharmacist about executions?

6 A. No.

7 Q. Okay. What type of drug is vecuronium
8 bromide?

9 MR. SUTHERLAND: Objection to the form.

10 THE WITNESS: I don't know.

11 BY MS. LEONARD:

12 Q. What type of drug is potassium chloride?

13 MR. SUTHERLAND: Same objection.

14 THE WITNESS: I don't know that, either.

15 BY MS. LEONARD:

16 Q. What type of drug is midazolam?

17 MR. SUTHERLAND: Same objection.

18 THE WITNESS: I don't know.

19 BY MS. LEONARD:

20 Q. Is midazolam typically used as an
21 anesthetic?

22 MR. SUTHERLAND: Same objection.

23 THE WITNESS: I don't know.

24 BY MS. LEONARD:

25 Q. Is midazolam FDA approved as the sole

1 drug to produce and maintain anesthesia?

2 MR. SUTHERLAND: Same objection.

3 THE WITNESS: I don't know that, either.

4 BY MS. LEONARD:

5 Q. Is midazolam acidic?

6 MR. SUTHERLAND: Same objection.

7 THE WITNESS: I don't know.

8 BY MS. LEONARD:

9 Q. Does midazolam have a ceiling effect?

10 MR. SUTHERLAND: Same objection.

11 THE WITNESS: I don't know.

12 BY MS. LEONARD:

13 Q. Do you know what a ceiling effect is?

14 MR. SUTHERLAND: Same objection.

15 THE WITNESS: I don't.

16 BY MS. LEONARD:

17 Q. Okay. Are any of these drugs diluted
18 before they're administered?

19 A. I'm not sure I understand the question.

20 Q. Are any -- are any of the drugs mixed
21 with something else before they are administered?

22 A. Yes.

23 Q. Which ones?

24 A. The vecuronium bromide is a powder that's
25 mixed with a -- or that's reconstituted with a

1 bacteriostatic water. And in those two executions, the
2 midazolam was compounded and drawn into a syringe with
3 45 milliliters -- milliliters of saline.

4 Q. When you say "those two executions," are
5 you referring to Mr. Johnson's and Mr. Irick's that we
6 just discussed?

7 A. Yes.

8 Q. Okay. Is -- you said that vecuronium
9 bromide is reconstituted with bacteriostatic water?

10 A. That's correct.

11 Q. Are any of the other drugs mixed with
12 anything else?

13 A. Just the midazolam into the saline.

14 Q. Okay. And is the potassium chloride
15 mixed with anything else?

16 A. It has not been during any executions
17 I've participated in.

18 Q. Okay. Do you do the mixing of the drugs?

19 MR. SUTHERLAND: Object to form.

20 THE WITNESS: No, that's done by the
21 Executioner during the chemical preparation.

22 BY MS. LEONARD:

23 Q. Okay. Do you watch the Executioner
24 preparing the drugs?

25 A. I do.

1 Q. And do you keep records of this?

2 A. Yes, on the Chemical Preparation Form.

3 Q. And that's the Chemical Preparation and
4 Administration record that we talked about before?

5 A. Yes.

6 Q. Okay. Other than the forms that we
7 discussed before, are there any additional records that
8 you keep showing the chemical preparation?

9 A. No.

10 Q. Okay. Where are these records kept after
11 an execution?

12 A. I don't know. We hand them to the
13 Warden.

14 Q. Okay. You -- do you hand them to the
15 Warden the night of the execution?

16 A. Either that, or directly to his office.
17 But yes, the night of the execution.

18 Q. Okay. On the same page, 34 of the
19 protocol, it states that: "The chemicals will either
20 be FAA-approved, commercially manufactured drugs or
21 shall be compounded preparations prepared in accordance
22 with pharmaceutical standards consistent with the
23 United States guidelines," et cetera.

24 Do you see where I'm looking at?

25 A. Yes.

1 Q. Okay. Are the drugs that you use for
2 executions compounded?

3 A. The midazolam has been compounded in the
4 past.

5 Q. Is the midazolam always compounded?

6 A. It has been for the two executions I've
7 participated in.

8 Q. Okay. So you've only participated in two
9 lethal injection executions since 2016?

10 A. That I can recall, just there were only
11 two.

12 Q. Okay. And the midazolam has been
13 compounded for both?

14 A. That's correct.

15 Q. And that was Mr. Johnson's and
16 Mr. Irick's executions?

17 A. Yes.

18 Q. Okay. What is the difference between a
19 commercially manufactured and a compounded drug?

20 MR. SUTHERLAND: Objection to the form.

21 THE WITNESS: I don't know the specifics.

22 BY MS. LEONARD:

23 Q. Is there a difference between them?

24 MR. SUTHERLAND: Same -- same objection.

25 THE WITNESS: I suppose the source.

1 BY MS. LEONARD:

2 Q. I'm sorry, you said "the source?"

3 A. I suppose maybe the source. I don't
4 know.

5 Q. Okay. Is there any difference between
6 the drug itself if it's compounded versus manufactured?

7 MR. SUTHERLAND: Same objection.

8 THE WITNESS: I don't know that.

9 BY MS. LEONARD:

10 Q. Okay.

11 MR. SUTHERLAND: IV Team 2, if you could
12 pause just a second after the question so it'll --
13 so I'm not talking over you.

14 THE WITNESS: Yes, sir.

15 BY MS. LEONARD:

16 Q. Do you check the expiration date of the
17 drugs before you use them in an execution?

18 A. I don't check the expiration date.

19 Q. Does someone else on the Execution Team
20 check the expiration date?

21 A. Yes.

22 MR. SUTHERLAND: Objection, form. Please
23 pause for a second before you give the answers.

24 Thank you.

25 BY MS. LEONARD:

1 Q. How -- without giving me a name, who
2 checks the expiration dates on the drugs before the
3 execution?

4 A. I believe the Warden and the Executioner.

5 Q. Okay. Do you ever use expired drugs in
6 an execution?

7 A. Not to my knowledge.

8 Q. Let's take a look at the next page of the
9 protocol. So this is Page 35 of Exhibit 1.

10 A. Okay.

11 Q. Looking specifically on the second half
12 of the page under the heading "Storage of LIC," Item 1.

13 A. Yes.

14 Q. And that talks about it -- starts with
15 "When the LIC is received." Do you need a second to
16 just review that paragraph, Item 1?

17 A. Okay. I'm good.

18 Q. Okay. It says there: "When a member" --
19 "when the LIC is received, a member of the Execution
20 Team and the Warden take the LIC to the armory area of
21 Building 7."

22 Which member of the Execution Team member
23 is that, without giving me the name?

24 A. I don't know.

25 MR. SUTHERLAND: Object to the form.

1 BY MS. LEONARD:

2 Q. Is it ever you?

3 A. It has not been.

4 Q. Have you seen the storage container of
5 the LICs?

6 A. Yes.

7 Q. Has everyone on the IV Team seen the
8 storage container?

9 MR. SUTHERLAND: Objection to the form.

10 THE WITNESS: I don't know.

11 BY MS. LEONARD:

12 Q. When did you see the storage container of
13 the lethal injection chemicals?

14 A. I've seen them when they're removed on
15 the day of execution.

16 Q. Okay. And why are you able to see that,
17 see it then?

18 A. I'm -- the Executioner, Warden, and
19 myself are there to remove them and take them to the
20 lethal injection room.

21 Q. Okay. So you are one of the members of
22 the Execution Team that help take the LIC from the
23 armory area to Building 7 and move it to the Capital
24 Punishment Unit?

25 A. That's correct.

1 Q. Okay. Are you always the member of the
2 Execution Team that helps move the chemicals?

3 A. I have been for those executions.

4 Q. For the past two executions we've been
5 discussing?

6 A. Yes.

7 Q. Okay. And is it only you and the Warden,
8 you said?

9 A. No, it's the Warden and the Executioner
10 and myself.

11 Q. Okay. I'm sorry, you did say also the
12 Executioner was there.

13 Okay. In the same section, it has some
14 details here about the container and the security. Do
15 you need a minute to look at the rest of this page before
16 I ask you a couple of questions?

17 A. Sure.

18 (Witness reviews document.)

19 THE WITNESS: Okay.

20 BY MS. LEONARD:

21 Q. Who is the one member of the Execution
22 Team to whom the key is surrendered?

23 MR. SUTHERLAND: Objection to the form.

24 BY MS. LEONARD:

25 Q. I can clarify the sentence I'm looking

1 at, if that'll be helpful.

2 A. Sure.

3 Q. So in Item 2, about halfway through, it's
4 talking about the key to the container. And there's a
5 sentence that starts towards the bottom of the page:
6 "The Warden surrenders the key to no one other than one
7 member of the Execution Team designated for
8 inventorying the LIC," and then it continues.

9 Who is that one member of the Execution
10 Team who gets the key?

11 A. I don't know.

12 Q. Is it ever you?

13 A. It has not been.

14 Q. Okay. Do you know when the key is
15 returned to the Warden?

16 A. I don't.

17 Q. And then it says in the final sentence of
18 the same paragraph, Item 2: "Only the Warden or
19 designee is allowed to access the storage container."

20 Who is the designee in this case?

21 A. I don't know.

22 Q. Has it ever been you?

23 A. No.

24 Q. Okay. Are you ever allowed access to the
25 storage container?

1 A. I have never had access to it. I've --
2 as I said, I have been present with the Warden and
3 Executioner to remove the chemicals.

4 Q. But you've only ever seen it when you are
5 moving the chemicals in advance of an execution; but
6 otherwise, you don't have any access to it?

7 A. I may have been present during an
8 inventory at some time; but it's never been my access,
9 no.

10 Q. Okay. Let's go to Page 39. It says at
11 the top of that page, "Lethal Injection Chemical Set-Up
12 and Preparation." Is that what you're looking at?

13 A. Yes.

14 Q. Okay. Do you need a minute to look
15 through this page?

16 A. I'm familiar.

17 Q. Okay. It states here in Item 1 that:
18 "Prior to an execution, a minimum of two
19 members of the Execution Team bring the
20 LICs from the armory area directly to the
21 lethal injection room."

22 Is the lethal injection room the same
23 lethal injection Executioner's room that we've been
24 talking about and that we saw in the diagram?

25 A. It is.

1 Q. Okay. And who are the two members that
2 bring the LICs from the armory to the lethal injection
3 room, without giving me their names?

4 A. The Executioner and myself.

5 Q. Okay. And has it ever been anyone else
6 since you've been involved with executions?

7 A. Not that I remember.

8 Q. Okay. And the beginning of that sentence
9 says, "Prior to an execution." I'm wondering when
10 exactly "prior" is. Is it an hour before, is it longer
11 than that? I'm just trying to get an idea of what
12 "Prior to an execution" means.

13 A. Maybe two to three hours prior.

14 Q. Okay. And how do you know when it's time
15 to move the LICs from the armory to the lethal
16 injection room?

17 A. In coordination with the Warden.

18 Q. Does the Warden make that decision, or do
19 you make that decision together with him?

20 A. I think the Warden makes that decision.

21 Q. Okay. When do you first see the lethal
22 injection chemicals?

23 MR. SUTHERLAND: Objection to the form.

24 THE WITNESS: When they're removed from
25 the storage container.

1 BY MS. LEONARD:

2 Q. Is that in the lethal injection room?

3 A. No, that's in the armory.

4 Q. Okay. So they're removed from the
5 storage container in the armory, and then you take them
6 over to the lethal injection room after that?

7 A. Yes.

8 Q. Okay. What do the lethal injection
9 chemicals look like when you first see them?

10 MR. SUTHERLAND: Objection to the form.

11 THE WITNESS: They're vials.

12 BY MS. LEONARD:

13 Q. Are all three of the drugs in vials?

14 A. Yes.

15 Q. And it says on this same page, the second
16 sentence of Item 1, so where we left off reading: "The
17 amount of chemicals and saline is sufficient to make
18 two complete sets of nine syringes each."

19 What exactly is the amount of chemicals
20 and saline sufficient to make two complete sets of nine
21 syringes each?

22 MR. SUTHERLAND: Objection to the form.

23 THE WITNESS: I'm not sure I understand
24 your question.

25 BY MS. LEONARD:

1 Q. How many -- how many vials of midazolam
2 are needed?

3 A. For two complete sets, it's four
4 5-milliliter vials of midazolam.

5 Q. Okay. And how many vials of vecuronium
6 bromide are needed to make two complete sets?

7 A. 20.

8 Q. 20 vials?

9 A. Yes.

10 Q. How large are each of those vials?

11 A. 5 milliliters.

12 Q. 5 milliliters?

13 A. Yes.

14 Q. Okay. How many vials of potassium
15 chloride are needed to complete -- for two complete
16 sets?

17 A. I believe it's 12 20-milliliter vials.

18 Q. Okay. How do you know this information?

19 A. The protocol says the amounts of the
20 chemicals.

21 Q. Okay. In the last sentence of Item 1, it
22 says: "Only the Warden and one member of the Execution
23 Team have a key to the lethal injection room."

24 Who is the member of the Execution Team
25 that has a key to the lethal injection room?

1 A. I don't know.

2 Q. It's not you?

3 A. It's not.

4 Q. You've never had the key to the lethal
5 injection room?

6 A. I've been handed the key to open the
7 lethal injection room. I've never had the key.

8 Q. Okay. So you've been handed the key, but
9 then you give the key back?

10 A. Yes, correct.

11 Q. Is it the Warden who gives you the key?

12 A. Either the Warden or the Associate
13 Warden.

14 Q. Okay. In Item 2, it states that:
15 "The LICs are drawn into syringes by one
16 member of the Execution Team. Another
17 member of the Execution Team observes and
18 verifies that the procedure has been
19 carried out correctly."

20 I believe you mentioned before that the
21 Executioner is the one member of the Execution Team who
22 draws the LICs into syringes; is that right?

23 A. That's correct.

24 Q. And then which member of the Execution
25 Team observes and verifies that the procedure has been

1 carried out correctly?

2 A. I do that and the Observer. As I
3 mentioned earlier, we kind of do that as a three-person
4 check.

5 Q. So when you say "three people," it's you,
6 the Observer, and who else?

7 A. And the Executioner.

8 Q. Okay. And you mentioned that there were
9 -- there was an additional observer in both Mr. Johnson
10 and Mr. Irick's executions. What did that individual
11 do?

12 A. They would have observed the process, as
13 well.

14 Q. Okay. So it would have been four total
15 people that were observing and verifying?

16 MR. SUTHERLAND: Objection to the form.

17 THE WITNESS: Yes.

18 BY MS. LEONARD:

19 Q. Okay. It says here, "Verifies that the
20 procedure has been carried out correctly." What does
21 it mean for the procedure to be carried out correctly?

22 MR. SUTHERLAND: Object to the form. You
23 can answer.

24 THE WITNESS: The correct number of
25 syringes -- correct number of vials to complete

1 the amount of chemicals in the set, making sure
2 that it's the right chemical in the right syringe.

3 BY MS. LEONARD:

4 Q. Okay. And how do you verify that
5 information?

6 A. I don't understand the question.

7 Q. It says here that part of the job of the
8 Execution Team -- and you've identified that that's
9 you, as well as some others in the lethal injection
10 room -- observe and verify that the procedure has been
11 carried out correctly.

12 And you explained what it means to be
13 carried out correctly, and I'm wondering how it is that
14 you verify that.

15 A. Visually.

16 Q. When you say "visually," you check to see
17 what the -- how many vials there are?

18 A. See how many vials there are, as well as
19 what's been drawn into the syringe.

20 Q. Okay. And how to you know what's being
21 drawn into the syringe?

22 A. By observing right next to the
23 Executioner.

24 Q. Do you have any background in chemistry?

25 A. No.

1 Q. Are the same-size syringes used for all
2 three of the drugs?

3 A. Yes, the syringes are all the same size.

4 Q. What color is the content of the prepared
5 syringes of midazolam?

6 A. I would say it's clear.

7 Q. What color is the content of the prepared
8 syringes of vecuronium bromide?

9 A. Also clear.

10 Q. What color is the content of the prepared
11 syringes of potassium chloride?

12 A. Also clear.

13 Q. Do all the -- do all the three drugs look
14 the same in the prepared syringes?

15 A. Once they're prepared, I would say they
16 look the same.

17 Q. Okay. They're all clear and they're all
18 in the same-sized syringes?

19 A. Yes.

20 Q. Okay. And how is it you can tell which
21 drug is in which syringe, given they all look the same
22 when they're prepared?

23 A. By the vial that they're being extracted
24 from.

25 Q. Are those vials labeled?

1 A. As best I recall.

2 Q. Okay. And how -- who labels those vials,
3 without giving me a name?

4 MR. SUTHERLAND: Are you talking about
5 the vials? I'm sorry, Lynne, are you talking
6 about the vials or the syringes?

7 BY MS. LEONARD:

8 Q. The vials.

9 A. I don't know. I don't know where they're
10 labeled.

11 Q. Are the syringes labeled?

12 A. We label the syringes when -- during that
13 preparation process.

14 Q. And when you say "we," do you mean the
15 members of the IV Team that are in the lethal injection
16 room?

17 A. Yes.

18 Q. Okay. So just so I'm understanding, the
19 Executioner draws up the drugs from the vial into the
20 syringe and then the IV Team Members work together to
21 label the syringe?

22 A. Correct.

23 Q. Okay. What happens to the empty vials
24 after the syringes are prepared?

25 A. I believe they're set aside into a

1 disposal bag.

2 Q. Are you -- do you dispose of them in the
3 disposal bag?

4 A. I do not.

5 Q. Does someone else with you in the lethal
6 injection room do that?

7 A. Maybe the Executioner.

8 Q. You're not sure?

9 A. I'm not sure.

10 Q. Okay. Item 4, towards the bottom of Page
11 39, describes more details about preparation of the
12 drugs. Do you see where I'm looking?

13 A. Yes.

14 Q. And then this goes from Page 39 into the
15 top of Page 40. Do you need a second to just skim
16 through that to refresh yourself?

17 A. I'm familiar.

18 Q. Okay. Without giving me a name, who is
19 responsible for carrying out each of these steps?

20 A. The Executioner.

21 Q. Has it ever been you?

22 A. Not during an execution.

23 Q. So you've done it during the trainings?

24 A. Yes.

25 Q. Okay. And does anyone supervise the

1 preparation of the drugs using these steps?

2 A. I don't believe anybody else has been
3 present.

4 Q. Aside from the IV Team Members?

5 A. Correct.

6 Q. Okay. Have you seen written instructions
7 on how to prepare midazolam?

8 A. I have.

9 Q. Where have you seen those instructions?

10 A. I don't remember if it was at the
11 facility or from our general counsel. I don't recall.

12 Q. When you say "at the facility," do you
13 mean in the Capital Punishment Unit at Riverbend?

14 A. Or at Riverbend generally.

15 MR. SUTHERLAND: Did we lose the
16 videographer? Do you want to try to go off the
17 record for a minute until he reappears?

18 (Technical pause.)

19 THE VIDEOGRAPHER: We're back on the
20 record the 12:47 p.m.

21 MS. LEONARD: We lost the videographer
22 momentarily, so the court reporter has kindly
23 volunteered to read back maybe the last two
24 questions and answers to make sure we have those
25 on the video record.

1 (The record was read by the Court
2 Reporter, as follows:

3 "Question: Where have you seen those
4 instructions?

5 Answer: I don't remember if it was at the
6 facility or from our general counsel. I
7 don't recall.

8 Question: When you say "at the facility,"
9 do you mean in the Capital Punishment Unit
10 at Riverbend?

11 Answer: Or at Riverbend generally.")

12 MS. LEONARD: Okay. Thank you.

13 BY MS. LEONARD:

14 Q. IV Team Member, when -- so to pick up
15 where we left off, have you seen the written
16 instructions at Riverbend?

17 A. Yes.

18 MR. SUTHERLAND: Object to the form.

19 BY MS. LEONARD:

20 Q. Okay. Does the Executioner have the
21 instructions with him when he's mixing the drugs?

22 A. I don't remember.

23 Q. Have you seen the Executioner using
24 instructions when he mixes the drugs?

25 A. I don't remember if there were

1 instructions in front of him.

2 Q. Okay. It -- but it's your duty to watch
3 what the Executioner is doing and verify that it's
4 carried out correctly?

5 A. That's correct.

6 Q. Do you refer to any written instructions
7 while you're watching the Executioner mix the drugs?

8 A. I don't believe I have them in my hand
9 during that.

10 Q. Do you have them in the lethal injection
11 room?

12 A. Yes, I would say we've had them in there.

13 Q. Do you have them in there during every
14 execution?

15 A. I don't remember.

16 Q. Do you reference those instructions while
17 the Executioner is mixing the drugs?

18 A. Not in -- not during the actual mixing,
19 no.

20 Q. Okay. If you are not -- well, given that
21 you're not referencing any instructions, how do you
22 know if the Executioner is preparing the drugs
23 correctly?

24 A. We do review them in advance.

25 Q. You review the instructions in advance?

1 A. Yes.

2 Q. And when you say "we," you mean the IV
3 Team Members?

4 A. At least myself and the Executioner. I
5 can't say for certain the rest.

6 Q. And when you say "in advance," do you
7 mean ahead of the execution?

8 A. Yes.

9 Q. How far in advance of the execution,
10 roughly, do you review the instructions?

11 A. On the day of, maybe within -- within
12 hours of preparation.

13 Q. On Page 39, the same page we were just
14 looking at, it says -- at the bottom, it's talking
15 about vecuronium bromide. And I believe you also
16 mentioned this before.

17 It says: "The vecuronium is in powder
18 form and must be reconstituted with bacteriostatic
19 water."

20 Do you see where I'm reading?

21 A. Yes.

22 Q. What does it mean to reconstitute the
23 vecuronium bromide?

24 A. I couldn't define the word. The process
25 is drawing the bacteriostatic water from its vial and

1 putting it into the vial with the powdered vecuronium.

2 Q. Does the Executioner do this?

3 A. Yes.

4 Q. Have you seen written instructions on how
5 to reconstitute vecuronium bromide?

6 A. Not that I recall.

7 Q. Does the Executioner have written
8 instructions when he's reconstituting the vecuronium
9 bromide?

10 MR. SUTHERLAND: Objection to the form.

11 THE WITNESS: Not that I'm aware.

12 BY MS. LEONARD:

13 Q. If neither you or the Executioner has
14 seen any instructions, then how do you know whether the
15 Executioner is reconstituting the vecuronium bromide
16 correctly?

17 A. It's my understanding that the process to
18 reconstitute is the mixing it with the bacteriostatic
19 water.

20 Q. Let's pull up Exhibit 2. Do you have the
21 exhibit in front of you, IV Team Member?

22 A. I do.

23 Q. It says at the top, "Midazolam Storage
24 and Preparation Instructions." Have you ever seen this
25 document before?

1 A. I have.

2 Q. When did you see this document?

3 A. I've seen it a number of times. I don't
4 -- and it lists them.

5 Q. Where do these -- where did this document
6 come from?

7 MR. SUTHERLAND: Objection to the form.

8 THE WITNESS: It was my understanding it
9 was obtained from the compounding pharmacist.

10 BY MS. LEONARD:

11 Q. When's the last time that you reviewed
12 these instructions?

13 A. It's been sometime in the last few
14 months, maybe.

15 Q. Within the last six months, would you
16 say?

17 A. Yes.

18 Q. How frequently do you review these
19 instructions?

20 A. I review them more frequently as we have
21 the executions approaching. When we don't, I don't
22 review them as frequent.

23 Q. Okay. So when there's not an execution
24 approaching, roughly how frequently do you review the
25 instructions?

1 MR. SUTHERLAND: Objection to the form.

2 THE WITNESS: Every three to six months,
3 maybe.

4 BY MS. LEONARD:

5 Q. Once every three to six months?

6 A. When I review them, I spend time
7 reviewing them. A single review.

8 Q. Okay. A single review, but you take some
9 time with that review once in a three- to six-month
10 period?

11 A. Right.

12 Q. Okay. And when an execution is
13 approaching, how frequently do you review the
14 instructions?

15 A. Sometimes as much as a daily basis.

16 Q. Roughly how far in advance of an
17 execution do you begin reviewing these instructions
18 daily?

19 A. Around the same time as the more frequent
20 training, so two to three weeks prior.

21 Q. Okay. Do you have authority to deviate
22 from these instructions?

23 A. Not that I'm aware of.

24 Q. Does the Executioner have authority to
25 deviate from these instructions?

1 A. I don't know.

2 Q. Do you have these instructions in hand
3 during an execution?

4 MR. SUTHERLAND: Objection to the form,
5 based on his prior answer.

6 THE WITNESS: Not in hand, but -- but
7 present.

8 BY MS. LEONARD:

9 Q. When you say "present," where are the
10 instructions?

11 A. They might be in a binder. They're in
12 the lethal injection room.

13 Q. Does the Executioner have these
14 instructions in hand as he's preparing the drugs?

15 MR. SUTHERLAND: Objection to the form.

16 THE WITNESS: Not in hand.

17 BY MS. LEONARD:

18 Q. Okay. Let's pull up Exhibit 4.

19 A. Okay.

20 Q. This document says "Potassium Chloride
21 Preparation Instructions." Is that what you're seeing?

22 A. Yes.

23 Q. Have you seen this document before?

24 A. I have.

25 Q. When's the last time that you saw this

1 document?

2 A. In the last couple of months, three to
3 six.

4 Q. And how frequently do you review these
5 instructions?

6 A. It's the -- it would be the same as the
7 infrequent review prior to -- when there's not an
8 execution scheduled. We've not utilized compounded
9 potassium chloride in an execution.

10 Q. Okay. Where do these instructions come
11 from?

12 A. It's my understanding they also came from
13 the compounding pharmacist.

14 Q. Who told you that they -- without giving
15 me a name, who told you that they came from the
16 compounding pharmacist?

17 A. I don't remember.

18 Q. Did someone tell you that they came from
19 a compounding pharmacist?

20 A. I think so.

21 Q. You're not sure?

22 A. I don't remember if -- if I saw these the
23 first time from the Executioner or if I was handed them
24 by our general counsel.

25 Q. Okay. When is the first time that you

1 saw these instructions?

2 A. I don't remember.

3 Q. Was it in the last six months?

4 MR. SUTHERLAND: Objection to the form.

5 THE WITNESS: I don't -- I don't think
6 so.

7 BY MS. LEONARD:

8 Q. Was it within the last year?

9 A. It's possible. I don't remember.

10 Q. Did you use these instructions during
11 Mr. Johnson's execution?

12 A. No.

13 Q. Did you use these instructions during
14 Mr. Irick's execution?

15 A. No.

16 Q. Going back to Exhibit 2 quickly, the
17 midazolam storage and preparation instructions. Did
18 you use these instructions during Mr. Johnson's
19 execution?

20 A. I believe so.

21 Q. You're not sure?

22 A. It's been several years. I believe we
23 had -- we used them then.

24 Q. Did you use these instructions during
25 Mr. Irick's execution?

1 A. I believe so, as well.

2 Q. Going back to Exhibit 4, the potassium
3 chloride instructions; do you have authority to deviate
4 from these instructions?

5 A. Not that I'm aware of.

6 Q. Does anyone else have authority to
7 deviate from these instructions?

8 MR. SUTHERLAND: Objection to the form.

9 THE WITNESS: Not that I'm aware of.

10 BY MS. LEONARD:

11 Q. Do you know what it means for a drug to
12 fall out of solution?

13 A. No.

14 Q. Have you ever heard that phrase before,
15 "fall out of solution?"

16 A. I might have heard it. I don't know what
17 it is.

18 Q. Turning back to the protocol, where we
19 left off was Page 40. I'm looking at Item 7, the
20 vecuronium bromide on Page 40 of Exhibit 1.

21 A. I'm sorry, give me a second. I have --
22 I'm trying to close a few of the older exhibits because
23 I can't see which one is which.

24 Q. Sure. Take your time. There are a lot
25 of exhibits on the screen. I understand.

1 A. Page 40, correct?

2 Q. Correct.

3 A. I am there.

4 Q. So Item 7 states: "When the execution is
5 complete, all syringes and any of the prepared but
6 unused LICs are sent to the Medical Examiner's Office
7 with the body. Do you see that?

8 A. Yes.

9 Q. Without giving me any name, who sends the
10 prepared but unused LIC syringes to the Medical
11 Examiner's Office?

12 A. It could be myself or the Executioner.

13 Q. Did you do that during Mr. Johnson's
14 execution?

15 A. I don't remember which one of us did it.

16 Q. Did you do it -- have you done it in
17 either of the executions you've participated in?

18 A. I don't remember. We're all -- we're all
19 present when that happens. I don't recall who
20 specifically placed it with the body.

21 Q. Okay. And when does that process take
22 place?

23 A. Once the -- once the body has -- is --
24 when the -- when the body bag is being closed, the
25 lines and syringes and all of those things are placed

1 with it.

2 Q. Does anyone take photos prior to the
3 execution?

4 A. Not that I'm aware.

5 Q. Does anyone take photos during the
6 execution?

7 A. Not that I'm aware.

8 Q. Does anyone take photos after the
9 execution?

10 A. The Medical Examiner's Office
11 photographs, yes.

12 Q. What does the Medical Examiner's Office
13 photograph after the execution?

14 MR. SUTHERLAND: Objection to the form.

15 THE WITNESS: I don't know what all they
16 photograph.

17 BY MS. LEONARD:

18 Q. How do you know that the Medical
19 Examiner's Office takes photographs after the
20 execution?

21 A. I recall seeing them photograph the body.
22 Beyond that, I don't -- I don't recall what they might
23 have photographed.

24 Q. Do they take any photographs inside the
25 lethal injection room?

1 A. I don't remember.

2 Q. How many people from the Medical
3 Examiner's Office take the photographs?

4 A. I only recall one photographer.

5 Q. And is that true for both Mr. Johnson's
6 and Mr. Irick's executions?

7 A. As best I recall.

8 Q. I mean, you recall only that this
9 individual took pictures of the body at both of those
10 executions?

11 A. I can't recall additional photographs,
12 but I'm not certain.

13 Q. Let's look at Page 41 of the protocol.
14 So same exhibit, Exhibit 1. It says "IV Line Set-Up"
15 at the top. Do you see that?

16 A. I've got that.

17 Q. Okay. Do you need a second to review
18 this page?

19 A. I think I'm okay.

20 Q. Okay. Without giving me a name, who is
21 responsible for carrying out each of these seven steps?

22 A. Usually, it's the Executioner.

23 Q. But it's not always the Executioner?

24 A. In training, where we rotate, it can be
25 someone else.

1 Q. In the two executions you've participated
2 in -- Mr. Johnson's and Mr. Irick's -- has it been the
3 Executioner?

4 A. Yes.

5 Q. Okay. Have you -- I'll give you a minute
6 to look through this before. Would you -- are any of
7 these steps your responsibility?

8 (Witness reviews document.)

9 THE WITNESS: Step 6 is easier done with
10 two sets of hands. So in some cases I'll assist
11 with 6, putting the lines in place.

12 BY MS. LEONARD:

13 Q. So 6 says: "The line is taped to the
14 port where the syringe is inserted in place." So to be
15 clear, when you say sometimes this is better
16 accomplished with two sets of hands, you mean that you
17 help tape the line to the port; is that right?

18 A. Correct, or hand tape to the person
19 taping it.

20 Q. And hand tape? And who is the person
21 taping it, without giving me their name?

22 A. The Executioner.

23 Q. It's always the Executioner that does the
24 taping?

25 A. It has been during those two executions.

1 In training, it can vary.

2 Q. Okay. And is there anything else on this
3 page that you participate in?

4 A. Give me just one second.

5 (Witness reviews document.)

6 THE WITNESS: Again, not during the
7 actual execution. We have in training.

8 BY MS. LEONARD:

9 Q. Okay. The Item 4 talks about the
10 extensions and about purchasing them in different
11 lengths. It says that: "The extensions are added to
12 each end" -- "each end of the solution set until it
13 reaches the desired length."

14 Without giving me a name, who purchases
15 those extensions?

16 A. I don't know.

17 Q. Are the extensions reused from one
18 execution to the next?

19 A. No.

20 Q. So there's a new set of extensions for
21 each execution?

22 A. Yes.

23 Q. How many extension sets are used to
24 connect a bag of sodium chloride to the IV in the
25 prisoner's arm?

1 A. One for each. They're separate lengths,
2 but it -- they're both -- one's a little over 100
3 inches and one's maybe around 150 inches.

4 Q. Okay. And why is one longer than the
5 other?

6 A. The one to the right side of the body has
7 to reach farther.

8 Q. What type of tape do you use to tape the
9 line to the port?

10 A. It's a medical tape.

11 Q. Without giving me a name, who purchases
12 the medical tape?

13 A. I don't know.

14 Q. What happens if the tape falls off or
15 becomes loose?

16 MR. SUTHERLAND: Objection to the form.

17 THE WITNESS: We would add more tape.

18 BY MS. LEONARD:

19 Q. Do you ever practice for this in
20 training?

21 A. It occurs in training from time to time.

22 Q. When you say "it occurs," you mean that
23 sometimes the tape has come loose?

24 A. Sure, yes.

25 Q. Okay. And when that happens, you just

1 use more tape?

2 A. Yes, it's -- it's taped in several
3 places, so it rarely moves even when a piece of tape
4 will come off. But we would still add back to it.

5 Q. How do you know which line is to the left
6 arm versus the right arm once the line is fed through
7 the port?

8 A. The line on the left goes to the left
9 arm. The line on the right goes to the right arm.

10 Q. How do you know that that's -- from your
11 view, how do you know that?

12 A. When the lines are placed into the port,
13 they're placed on either side of the port -- the left
14 on the left side, right on the right side -- for the
15 members in the execution room.

16 Q. Okay. And you said before that it's a
17 single port?

18 A. It is.

19 Q. Are the lines labeled?

20 A. No.

21 Q. Okay. Let's go to the next page of
22 Exhibit 1. This is Page 42 of the protocol.

23 A. Okay.

24 Q. It says at the top, "Insertion of the
25 Catheter and Connection of IV Lines." Do you need a

1 second to review this page? And it goes on to the next
2 page. It goes to 43, as well.

3 A. I've looked at it.

4 Q. Okay. Item 1 states: "The Extraction
5 Team straps the inmate to the gurney in the Death Watch
6 area." Are you part of the Extraction Team?

7 MR. SUTHERLAND: Objection to the form.

8 THE WITNESS: No.

9 BY MS. LEONARD:

10 Q. What is your role while the Extraction
11 Team is carrying out the steps described in 1
12 through 3?

13 A. I'm in the lethal injection room during
14 that time.

15 Q. Okay. And what are you doing in the
16 lethal injection room while the Extraction Team is
17 doing this work?

18 A. Usually, just waiting. The preparation
19 is completed before that time.

20 Q. Okay. Item 4 says:

21 "The IV Team enters the execution chamber
22 with an instrument cart. One member of the
23 IV Team remains in the lethal injection
24 room."

25 Which member of the IV Team remains in the

1 lethal injection room?

2 A. Generally, the same three that are in the
3 room will stay. During the execution, they'll stay
4 there during that time.

5 Q. Okay. So who on the IV Team, without
6 giving me a name, enters the execution chamber with the
7 instrument cart?

8 A. I don't know how else I would define
9 them. It's not somebody from the lethal injection room
10 that goes in with the cart.

11 Q. Okay. So are these the EMTs?

12 A. It's the EMTs, and there is another
13 correctional staff with them.

14 Q. Is that person the fourth member that is
15 in the lethal injection room?

16 A. No.

17 Q. Okay. So it's the EMTs plus someone else
18 that we haven't discussed yet today?

19 A. Yes.

20 Q. Okay. And where did they enter the
21 execution chamber from? If it helps to go back to Page
22 10 of the protocol on the diagram, we can do that.
23 That might help so we can all get on the same page.

24 A. Okay, sure.

25 With the words facing up, "Blue" to the

1 left, it's the door to the left of the lethal injection
2 room.

3 Q. Okay. So it's the -- label says "lethal
4 injection Executioner's room," but it's pointing with
5 the arrow into that smaller space we've been discussing
6 today? Like that area just has no label; is that
7 right?

8 A. Yes, correct.

9 Q. Okay. And that's where the IV Team
10 enters from?

11 A. Yes.

12 Q. But none of you from the lethal injection
13 room are part of that group of people?

14 A. Correct.

15 Q. Okay. Thanks for clarifying that.

16 We could go back to where we were. We
17 were on Page 42 and 43. Thanks for bearing with me on
18 all this scrolling.

19 A. Okay.

20 Q. So we were looking at Item 4. It says
21 "One member of the IV Team remains in the lethal
22 injection room." But actually what you're saying is
23 all three members of the IV Team remain in the lethal
24 injection room?

25 A. Yes.

1 Q. And you mentioned earlier, when talking
2 about Mr. Johnson's and Mr. Irick's executions, that
3 there were actually four members of the IV Team in the
4 lethal injection room; is that right?

5 A. Correct.

6 Q. What was the fourth member doing when the
7 IV Team entered the execution chamber with the
8 instrument cart?

9 A. They would have been in the lethal
10 injection room with us.

11 Q. Okay. I guess what I'm trying to
12 understand is, you keep referring to three of you, and
13 it sounds like there was maybe a fourth person there.
14 Was it three or four people that were there in the
15 Johnson and the Irick executions?

16 A. I'm not sure what you mean when you say
17 "were there."

18 Q. In the lethal injection room.

19 A. Gotcha. The Executioner and the other
20 three of us, so four.

21 Q. Okay. So four total.

22 Okay. And then the pan -- is the zoom
23 camera in the lethal injection room turned on while the
24 members of the IV Team are inserting the IV lines?

25 A. Yes.

1 Q. Okay. And that's because you turn it on
2 an hour or two before the execution?

3 A. Yes.

4 Q. Okay. In Item 6, it says: "The EMT
5 inserts the first catheter into a vein on the right
6 side of the inmate in the antecubital fossa area."

7 What is the antecubital fossa area?

8 MR. SUTHERLAND: Objection to the form.

9 THE WITNESS: I'm sorry, which number are
10 you on?

11 BY MS. LEONARD:

12 Q. No. 6 on Page 42.

13 A. I don't know what that means.

14 Q. And then it says in the next sentence:
15 "If a catheter cannot be successfully inserted into the
16 antecubital area," and the sentence continues.

17 What does this mean by if it cannot be
18 successfully inserted?

19 A. I apologize.

20 MR. SUTHERLAND: Objection to the form.

21 Please pause after the question so I can object,
22 if necessary.

23 THE WITNESS: Yes, sir. The antecubital
24 fossa area is the area inside of the elbow, the
25 inside of the elbow area. If a catheter can't be

1 successfully inserted, you're asking what that
2 means?

3 BY MS. LEONARD:

4 Q. Right.

5 MR. SUTHERLAND: I'm objecting to the
6 form. You can answer.

7 THE WITNESS: If the EMT determines that
8 they're not able to sufficiently access a vein.

9 BY MS. LEONARD:

10 Q. Okay. How many times does the EMT try to
11 insert the catheter into the antecubital fossa area
12 before determining that -- determining that it's not
13 successful?

14 MR. SUTHERLAND: I'm going to object to
15 the form.

16 THE WITNESS: I don't know.

17 BY MS. LEONARD:

18 Q. Does the EMT decide that he has not been
19 able to successfully do it?

20 MR. SUTHERLAND: Same objection.

21 THE WITNESS: As best I can tell, yes.

22 BY MS. LEONARD:

23 Q. Is the Warden involved in that decision?

24 MR. SUTHERLAND: Same objection.

25 THE WITNESS: I don't know.

1 BY MS. LEONARD:

2 Q. Is the Executioner involved in that
3 decision?

4 MR. SUTHERLAND: Same objection.

5 THE WITNESS: Not at -- not at that
6 stage.

7 BY MS. LEONARD:

8 Q. Item 7, it says:

9 "In the unlikely event that none of these
10 veins are usable, the physician is called
11 into the execution chamber to perform a
12 cutdown procedure."

13 Without giving me a name, who makes the
14 decision to call the physician into the execution
15 chamber?

16 MR. SUTHERLAND: Objection to the form.

17 THE WITNESS: I don't know.

18 BY MS. LEONARD:

19 Q. Do you have any say in this decision?

20 A. No.

21 Q. What is a cutdown procedure?

22 MR. SUTHERLAND: Objection to the form.

23 THE WITNESS: I understand it to mean
24 that a physician will take steps to access a vein
25 sufficiently.

1 BY MS. LEONARD:

2 Q. What type of steps?

3 MR. SUTHERLAND: Same objection.

4 THE WITNESS: I don't know specifics.

5 BY MS. LEONARD:

6 Q. The bottom of Page 42 has a heading that
7 says "Venipuncture and IV Lines." Do you see that?

8 A. Yes.

9 Q. And then it has a list of several steps.
10 It goes to EMTs, and then it looks like there's (a)
11 through (f) as steps that the EMTs follow. Do you see
12 that?

13 A. I do.

14 Q. Where are you located while the EMTs are
15 completing those steps?

16 A. In the lethal injection room.

17 Q. And what are you doing during that time?

18 A. I'll be monitoring, along with the
19 Executioner and the Observer, either through the window
20 or through the monitor. Usually, the monitor gets the
21 best view.

22 Q. During Mr. Johnson's execution, did you
23 observe using the monitor?

24 A. Yes.

25 Q. During Mr. Irick's execution, did you

1 observe using the monitor?

2 A. As best I remember.

3 Q. During Mr. Johnson's execution, did you
4 observe through the window?

5 A. Probably at some point.

6 Q. Probably at some point?

7 A. It would be easy to look, turn my head
8 one to the other.

9 Q. Okay. So you were standing in a spot in
10 the lethal injection room where you could see both, as
11 we discussed earlier?

12 A. As best I remember.

13 Q. And for Mr. Irick's execution, were you
14 also watching through the window?

15 A. During this process, most likely.

16 Q. Most likely, but you don't remember for
17 sure?

18 A. I don't remember for sure.

19 Q. Okay.

20 MS. LEONARD: How are we doing? How do
21 you all feel about a lunch break? I'm at an okay
22 stopping point if we want to do maybe a half an
23 hour for lunch?

24 MR. SUTHERLAND: How much longer do you
25 have, Lynne, do you think?

1 MS. LEONARD: That's a good question. I
2 mean, it'll probably be at least another hour,
3 potentially two. I don't think we're going to go
4 all afternoon or anything like that, but I'm
5 wondering how everybody's comfort level is with
6 breaks.

7 MR. SUTHERLAND: 30 minutes is fine.

8 MS. LEONARD: Okay. That sounds good.

9 THE VIDEOGRAPHER: Okay. We are off the
10 record. The time is 1:22 p.m.

11 (Recess at 1:22 p.m. to 2:00 p.m.)

12 THE VIDEOGRAPHER: We're back on the
13 record at 2:00 p.m.

14 BY MS. LEONARD:

15 Q. Okay. IV Team Member, I hope you enjoyed
16 your lunch break.

17 Just to make sure, did you speak to
18 anyone during the break?

19 A. No.

20 Q. Did anyone enter the room where you're
21 located during this deposition?

22 A. No.

23 Q. And just a reminder to please let us know
24 if anyone does come in or tries to contact you via
25 electronic messaging or anything else during this time.

1 Okay?

2 A. Yes.

3 Q. Great. Thank you.

4 We're going to go back to Exhibit 1. We
5 left off around Page 44.

6 A. Okay.

7 Q. This says at the top of the page,
8 "Chemical Administration and IV Monitor."

9 Item 1 at the top of the page says:
10 "All members of the IV Team monitor both
11 catheters to ensure that there is no
12 swelling around the catheter that could
13 indicate that the catheter is not
14 sufficiently inside the vein."

15 Are you included in all members of the IV
16 Team?

17 A. Read it again?

18 Q. I'm looking at Item 1 on Page 44.

19 A. I'm sorry, I was having trouble with the
20 zoom.

21 Q. Is it okay now?

22 A. It is.

23 Q. So I was just starting to read some of
24 Item 1, which begins with "All members of the IV Team
25 monitor both catheters." Are you considered part of

1 "All members of the IV Team" as used in this sentence?

2 A. Yes.

3 Q. Okay. And what -- how do you monitor the
4 catheters?

5 A. Through the video monitor in the room.

6 Q. Okay. How would you describe swelling?

7 A. So I describe it like a bloating of an
8 area.

9 Q. Have you been trained to identify
10 swelling?

11 A. I don't recall if that was in the initial
12 IV therapy training.

13 Q. And when was that IV therapy training?

14 A. In 2016.

15 Q. Okay. So you don't recall whether,
16 during that training in 2016, part of it was related to
17 identifying swelling?

18 A. I don't recall specifically.

19 Q. Okay. Have you been trained to identify
20 problems with insertions of catheters?

21 A. No, I don't think so.

22 Q. Have you ever noticed a problem with
23 insertion of the catheters in a real execution?

24 A. No, I haven't.

25 Q. If you noticed a problem, would you have

1 the authority to intervene?

2 MR. SUTHERLAND: I'm going to object to
3 the form.

4 THE WITNESS: I don't know. The
5 situation hasn't arisen.

6 BY MS. LEONARD:

7 Q. Have you ever noticed a problem with the
8 insertion of the catheters during a practice?

9 A. On occasion, but rarely.

10 Q. What happens when you -- what do you do
11 when you notice a problem with the insertion of the
12 catheters?

13 MR. SUTHERLAND: Objection to the form.

14 THE WITNESS: I notice it because the
15 EMTs, if inserting the catheter's not successful,
16 then they move to another location when necessary.
17 I don't have to do anything.

18 BY MS. LEONARD:

19 Q. Okay. Item 2 on the same Page 44 says
20 that: "Next, an IV Team Member tapes both hands, palms
21 up, to the arm support to prevent movement."

22 When it says "an IV Team Member" in this
23 sentence, is that really one of the EMTs as we've
24 discussed before?

25 A. It is not one of the EMTs. That's the

1 correctional staff that accompany them.

2 Q. Okay. And that correctional staff is not
3 one of the people who are located in the lethal
4 injection room?

5 A. Correct.

6 Q. Okay. What type of movement are -- is
7 the team seeking to prevent by taping the hands down?

8 MR. SUTHERLAND: Object to the form.

9 THE WITNESS: I don't know.

10 BY MS. LEONARD:

11 Q. You don't know why the hands are taped
12 down?

13 A. I know it's in the protocol. I can't --

14 Q. Has anyone -- sorry, go ahead.

15 A. I was saying it's in the protocol to do
16 so. That's my only understanding.

17 Q. Has anyone ever explained why the hands
18 are taped down?

19 A. If so, I don't recall.

20 Q. What kind of tape is used to tape the
21 hands to the gurney?

22 A. I believe it's a medical-type tape.

23 Q. Okay. Does anyone remain inside the
24 execution chamber after the hands are taped in place?

25 A. I believe it's only the Warden and

1 Associate Warden after that time.

2 Q. Okay. So two total people?

3 A. Yes.

4 Q. Then Item 4 says: "Designated members of
5 the IV Team enter the lethal injection room and assume
6 their preassigned stations."

7 But it sounds from what you were saying
8 before that you are already in the lethal injection
9 room during this time; is that right?

10 A. That's correct.

11 Q. Does anyone from the IV Team that's in
12 the execution chamber enter the lethal injection room
13 at any point?

14 A. No, not in the execution room.

15 Q. Okay. So this -- the Item 4 is basically
16 not correct, because no one from the IV Team is
17 entering the execution room after the hands are taped
18 down?

19 MR. SUTHERLAND: Objection to the form.

20 THE WITNESS: I don't know who that would
21 apply to.

22 BY MS. LEONARD:

23 Q. Okay. And there's an Item (a) and an
24 Item (b) underneath Item 4, too. It says:

25 "One IV Team Member observes the process,

1 monitoring the catheter sites for swelling
2 or discoloration, and enters the time of
3 the LIC and saline administration on the
4 Chemical Administration Record Sheet."

5 Is that one IV Team Member you?

6 A. Yes.

7 Q. Okay. And then in Item (b), it says:
8 "One IV Team Member observes the process
9 and hands the labeled/numbered/colored
10 syringes to the Executioner in the
11 prescribed order."

12 Is that IV Team Member you?

13 A. The Observer on the other side of the
14 room is who that item applies to.

15 Q. So Item -- so 7 -- I'm sorry, so 4(a)
16 refers to you and 4(b) refers to the Observer; is that
17 right?

18 A. I'm sorry, let me reread them.

19 (Witness reviews document.)

20 THE WITNESS: That's correct.

21 BY MS. LEONARD:

22 Q. And then Item 5 mentions the Executioner.
23 I can give you a minute to look at this and the next
24 page.

25 Do any of these steps involve the fourth

1 person who is in the lethal injection room?

2 A. From Step 5 forward?

3 Q. Anything from Step 1 through 10 on pages
4 44 and 45.

5 A. No, not beyond the observation.

6 Q. Okay. So, okay, not beyond the
7 observation that's mentioned in Item 1? Is that what
8 you mean?

9 A. I'm sorry, in Item 1 or in Item 4. Those
10 observations are essentially the only function that
11 person serves.

12 Q. Okay. So in Item 1, it says "All members
13 of the IV Team monitor"; and then in 4(a) and (b), when
14 it says "One IV Team Member observes the process," that
15 would include the fourth person in the lethal injection
16 room?

17 A. Correct.

18 Q. Does that fourth person in the lethal
19 injection room record anything?

20 A. Not that I've seen.

21 Q. So you were the only lethal injection
22 room person who fills out any records?

23 A. Correct, except for as I mentioned in the
24 trainings where we might alternate.

25 Q. Right. Okay.

1 Section 5 provides that the Executioner
2 selects either the left or right solution set line based
3 on the flow/drip inside the drip chamber. And then it
4 says, "If both lines are equal, the left line nearest the
5 Executioner is used."

6 Does the Executioner consult with anyone in
7 deciding which line to use?

8 A. No.

9 Q. Do you weigh in to this decision at all?

10 A. We probably discuss it in the room. We
11 do all look at those drip chambers, but the Executioner
12 decides.

13 Q. Did you discuss it during Mr. Johnson's
14 execution?

15 A. I don't recall.

16 Q. Did you discuss it during Mr. Irick's
17 execution?

18 A. I don't recall. It's pretty standard
19 that we do.

20 Q. When you say "It's pretty standard," do
21 you mean that you do that during training sessions?

22 A. Right.

23 Q. Okay. In Section 6, what does it mean to
24 "clamp the line near the spike?"

25 MR. SUTHERLAND: Objection to the form.

1 THE WITNESS: There's a roller clamp
2 that's part of the set. We roll that part closed
3 on the line, clamped off by the spike.

4 BY MS. LEONARD:

5 Q. Are you able to see the Warden signal the
6 Executioner?

7 A. Not unless I'm standing behind the
8 Executioner.

9 Q. Have you seen it in the two executions
10 you've participated in?

11 A. No, I don't think I have.

12 Q. What is the signal that the Warden gives
13 the Executioner to proceed?

14 A. In the instances I've seen, the Warden
15 rubs his face.

16 Q. I'm sorry, you said he rubs his face?

17 A. Correct, in the forehead area.

18 Q. Okay. If you're not able to see it, how
19 do you know that?

20 A. I've trained for that as we've rotated
21 positions.

22 Q. Okay. Section -- Item 7 is on the next
23 page, on Page 45. It says: "The Executioner pushes on
24 the plunger of the No. 1 syringe, red, with a slow,
25 steady pressure."

1 What is "a slow, steady pressure?"

2 MR. SUTHERLAND: Objection to the form.

3 THE WITNESS: I'm not sure I understand
4 the question.

5 BY MS. LEONARD:

6 Q. Do you measure the pressure?

7 A. No.

8 MR. SUTHERLAND: Objection to the form.

9 BY MS. LEONARD:

10 Q. Does anyone measure the pressure?

11 A. Other than the -- the Executioner
12 handling the syringe, not that I'm aware.

13 Q. Does he use any tools to measure the
14 pressure?

15 A. No.

16 Q. The second sentence in Item 7 says:
17 "Should there be or appear to be swelling
18 around the catheter or if there is
19 resistance being applied to the plunger,
20 the Executioner pulls the plunger back."
21 Is this the same type of swelling that we
22 just discussed a few minutes ago?

23 MR. SUTHERLAND: Objection to the form.

24 THE WITNESS: I would say so.

25 BY MS. LEONARD:

1 Q. Are you the person who tells the
2 Executioner if you notice that swelling around the
3 catheter?

4 MR. SUTHERLAND: Objection to the form.

5 THE WITNESS: The Executioner is
6 monitoring through the window. The Observer and
7 myself will both look at the video screen. So
8 anybody who sees something might have that
9 opportunity.

10 BY MS. LEONARD:

11 Q. Okay. And in either of the past
12 executions you've participated in, have you noticed
13 that swelling?

14 A. No.

15 Q. Without identifying the person, is this
16 always the same IV Team Member who hands the
17 Executioner the syringes?

18 A. I don't believe an IV Team Member hands
19 the syringe to the Executioner. We're monitoring that.
20 As I'm recording, I'm watching which syringe he picks
21 up.

22 Q. So the Executioner picks up the syringes
23 on his own?

24 A. As best I can recall.

25 Q. Okay. So in Item 8, when it says, "An IV

1 Team Member hands the syringes to the Executioner,"
2 that's not an accurate description of what has happened
3 in the executions you've been a part of?

4 A. As best I can remember, correct.

5 Q. Okay. And it says there, the second half
6 of that sentence in Item 8 is: "Both IV Team Members
7 observe the correct order of the syringes."

8 Who are the "Both IV Team Members"
9 referred to here?"

10 A. Myself and the Observer who controls the
11 camera.

12 Q. Okay. And what is the third person
13 doing? I guess that's the additional Observer?

14 A. Right.

15 Q. What is that additional Observer doing
16 while you and the Observer is watching the order of
17 syringes?

18 A. I'm not sure. They might be able to
19 monitor, as well. I can't say their viewpoint.

20 Q. What was that person doing during
21 Mr. Johnson's execution?

22 A. Standing probably behind the Executioner.
23 So I'm not sure if there was anything to observe in
24 that particular part.

25 Q. And would that be the same for

1 Mr. Irick's execution?

2 A. As best I remember.

3 Q. Okay. How do you know if the syringes
4 are in the correct order?

5 A. During the preparation process we -- we
6 monitor what's being drawn, from what -- from what
7 vials into which syringe.

8 That's physically checked by me. I hand
9 it to the other Observer, who then labels it with the
10 correct label, and then it goes in a tray and numbered
11 1 through 9.

12 Q. Okay. And then Item 9 says that:
13 "After the last syringe has been injected,
14 the Executioner closes the extension line
15 with a clamp and opens the line below the
16 spike to allow a drop of one to two drops
17 per second in the drip chamber."
18 Is this one to two drops per second
19 measured?

20 MR. SUTHERLAND: Objection to the form.

21 THE WITNESS: Just visually.

22 BY MS. LEONARD:

23 Q. What do you mean by "visually?"

24 A. Looking at the flow of the drops through
25 the drip chamber. I don't believe a clock has ever

1 been used.

2 Q. Okay. And who is observing that
3 visually, without giving me a name?

4 A. The Executioner. And those lines are
5 right in front of me, so I'm looking at them as well.

6 Q. And then Item 10, the final -- final
7 sentence on that page says: "The Executioner signals
8 the Warden that all of the LIC and saline solution have
9 been administered."

10 How does the Executioner make that
11 signal?

12 A. By placing an object into the port where
13 the Warden can see it.

14 Q. And what are you doing during that time?

15 A. I don't have any specific responsibility
16 in that moment.

17 Q. Where are you located in the lethal
18 injection room at that time?

19 A. In the position that I identified before;
20 to the Executioner's right, in that -- in that corner.

21 Q. Okay. To the Executioner's right, as if
22 you were both looking out the window to the execution
23 chamber?

24 A. Correct.

25 Q. Okay. Let's skip forward in the protocol

1 to Page 66.

2 A. Okay.

3 Q. This should say at the top, "7:10 p.m."
4 Do you see that in the upper left-hand corner?

5 A. I do.

6 Q. Okay. We're -- the section of the
7 protocol we're in is the "Day Three Evening Schedule."
8 Where are you located when the Executioner begins to
9 administer the midazolam?

10 A. In the same place, to the Executioner's
11 right.

12 Q. Okay. So in the left-hand corner of the
13 diagram as we were looking at it; which means if you
14 are in real life with the Executioner looking out the
15 window, to the Executioner's right. Correct?

16 A. Correct.

17 Q. Section 5 says:

18 "After 500 milligrams of midazolam and a
19 saline flush have been dispensed, the
20 Executioner shall signal to the Warden and
21 await further direction from the Warden."

22 Do you see that?

23 A. Yes.

24 Q. What is the purpose for this pause?

25 A. It's my --

1 MR. SUTHERLAND: Objection to the form.

2 THE WITNESS: It's my understanding that
3 that pause is to ensure that chemicals have time
4 to take effect, and then the Warden checks
5 consciousness.

6 BY MS. LEONARD:

7 Q. You said "The Warden checks
8 consciousness" after that?

9 A. Yes.

10 Q. Section 6 says:

11 "The Warden shall wait two minutes
12 following the administration of midazolam
13 and the saline flush before assessing the
14 consciousness of the inmate."

15 It sounds like that's what you were just
16 talking about; is that right?

17 A. Yes. I'm sorry, did I misunderstand your
18 question?

19 Q. No, no, that's fine. I'm trying to get
20 an understanding of how that works so that that makes
21 sense to me.

22 Why is it two minutes?

23 A. I don't know how that was determined.

24 MR. SUTHERLAND: Objection. Object to
25 the form.

1 BY MS. LEONARD:

2 Q. I'm sorry, could you repeat that answer?

3 A. Yes. I don't know how that was
4 determined.

5 Q. Okay. Section 7 then talks about the
6 Warden's assessment of consciousness. Do you need a
7 minute to review that paragraph? It's a little bit
8 lengthy.

9 A. Sure.

10 (Witness reviews document.)

11 THE WITNESS: Okay.

12 BY MS. LEONARD:

13 Q. What does it mean to be unconscious?

14 MR. SUTHERLAND: Objection to form.

15 THE WITNESS: I don't know how to define
16 it.

17 BY MS. LEONARD:

18 Q. What does "unconscious" mean to you?

19 MR. SUTHERLAND: Objection to the form.

20 THE WITNESS: I'm not sure I've ever
21 thought about it before. I would say to be
22 without awareness or feeling.

23 BY MS. LEONARD:

24 Q. Okay. Did you tell us earlier that part
25 of your duty as an IV Team Member is to observe the

1 consciousness check?

2 A. I do observe it, correct.

3 Q. And yet you've never thought about what
4 it means to be unconscious?

5 A. I guess I've never thought about how I
6 would define it.

7 Q. Is there a difference between being
8 asleep and unconscious?

9 MR. SUTHERLAND: Objection to the form.

10 THE WITNESS: I would say so.

11 BY MS. LEONARD:

12 Q. What's that difference?

13 MR. SUTHERLAND: Same objection.

14 THE WITNESS: To me, the difference
15 between sleep and unconsciousness; sleep, you can
16 pretty easily wake up.

17 BY MS. LEONARD:

18 Q. And if you're unconscious, it's harder to
19 wake up?

20 A. I suppose so.

21 Q. Is there a difference between being
22 unresponsive and insensate?

23 MR. SUTHERLAND: Objection to the form.

24 THE WITNESS: I don't know.

25 BY MS. LEONARD:

1 Q. Have you ever heard the term
2 "unresponsive?"

3 A. I have.

4 Q. Have you heard the term "insensate?"

5 A. I don't know.

6 Q. You're not sure whether you've heard that
7 term before?

8 A. Correct.

9 Q. Okay. But you have heard the word
10 "unresponsive?"

11 A. Yes.

12 Q. And what do you understand "unresponsive"
13 to mean?

14 A. To not react to -- have no reaction or
15 response to physical or -- I'm not sure. I can't
16 elaborate on that.

17 Q. So how can you tell if someone's
18 unresponsive?

19 MR. SUTHERLAND: Objection to the form.

20 THE WITNESS: Not -- no movement, no
21 reaction.

22 BY MS. LEONARD:

23 Q. Under any circumstances?

24 MR. SUTHERLAND: Same objection.

25 THE WITNESS: I don't know. If you're

1 asking my opinion?

2 BY MS. LEONARD:

3 Q. Sure. I'm asking for your understanding.

4 A. Yeah, unresponsive would be under any
5 circumstances.

6 Q. Okay. Do you know whether it's possible
7 that someone could still have feeling, even if that
8 person is unresponsive?

9 MR. SUTHERLAND: Same objection.

10 THE WITNESS: I don't know.

11 BY MS. LEONARD:

12 Q. Have you ever thought about that before?

13 MR. SUTHERLAND: Same objection.

14 THE WITNESS: Not specifically.

15 BY MS. LEONARD:

16 Q. Have you been trained in how to check for
17 consciousness?

18 A. No.

19 Q. You were never trained in that?

20 A. No.

21 Q. Are you aware of any medical standards
22 related to checking for consciousness?

23 A. No, I'm not aware.

24 Q. Is the movement of fingers an indication
25 of consciousness?

1 MR. SUTHERLAND: Object to the form.

2 THE WITNESS: I don't know.

3 BY MS. LEONARD:

4 Q. Who performs the consciousness check?

5 A. The Warden.

6 Q. And you're watching that on the monitors?

7 A. Correct.

8 Q. Would you be able to see if the prisoner
9 moved his fingers?

10 A. I don't know.

11 Q. You don't know whether you're able to see
12 the fingers on the monitor?

13 A. I can -- the fingers are on the monitor.
14 Whether you can see movement or not, I'm not certain.

15 Q. What makes you uncertain about that?

16 A. It depends on how slight the movement is.

17 Q. Okay. And does the fact that the fingers
18 are taped to the gurney impact your ability to see if
19 they're moving?

20 A. It might.

21 Q. The final sentence of Section 7 says:

22 "If the condemned inmate is responsive, the Warden
23 shall direct the Executioner to switch to the secondary
24 IV line."

25 Do you see where I'm reading?

1 A. Yes.

2 Q. What does it mean to be responsive?

3 MR. SUTHERLAND: Object to the form.

4 THE WITNESS: I don't know.

5 BY MS. LEONARD:

6 Q. Who makes -- who makes the determination
7 whether the inmate is responsive?

8 MR. SUTHERLAND: Object to the form.

9 THE WITNESS: It's my understanding the
10 Warden makes that decision.

11 BY MS. LEONARD:

12 Q. And is it part of your duty to watch the
13 Warden making this assessment?

14 MR. SUTHERLAND: Object to the form.

15 THE WITNESS: It's part of my duty to
16 record.

17 BY MS. LEONARD:

18 Q. And I think you also mentioned earlier
19 that in recording you're also observing it?

20 A. Yes.

21 Q. Okay. And yet you're not sure what it
22 means for the condemned inmate to be responsive?

23 A. In looking for a response to record, I
24 would be looking for movement, something audible or
25 physical.

1 Q. I'm sorry, what was that last word you
2 said?

3 A. Or physical.

4 Q. Something audible or physical? Okay.

5 In either of the last two executions you've
6 participated in, have you disagreed with the Warden's
7 consciousness check?

8 MR. SUTHERLAND: Object to the form.

9 THE WITNESS: No.

10 BY MS. LEONARD:

11 Q. If you did disagree, what would you do?

12 MR. SUTHERLAND: Same objection.

13 THE WITNESS: The Warden is trained to
14 make the responsiveness check. I haven't
15 contemplated if I disagree with it. I don't even
16 have the training for it.

17 BY MS. LEONARD:

18 Q. And yet it's part of your job to observe
19 and record this consciousness check, as you mentioned
20 earlier?

21 A. It's part of my job --

22 MR. SUTHERLAND: Objection. Same
23 objection.

24 THE WITNESS: It's part of my
25 responsibility to observe my observation.

1 BY MS. LEONARD:

2 Q. To observe your own observation?

3 A. I'm sorry, record my observation.

4 Q. Okay. But why do you switch to the
5 second IV line if the inmate's responsive?

6 MR. SUTHERLAND: Object to the form.

7 THE WITNESS: I don't know why. That's
8 what the protocol tells us to do.

9 BY MS. LEONARD:

10 Q. I'm sorry, I missed the last few words.
11 You said "That's the part?"

12 A. That's what the protocol requires.

13 Q. Oh, I see. Has anyone ever explained to
14 you why you switch to that secondary line in that
15 instance?

16 A. Not that I recall.

17 Q. All right. Section 8 mentions a
18 five-minute waiting period. Do you need a second to
19 review Section 8?

20 A. No, I'm okay.

21 Q. What is the purpose of that five-minute
22 waiting period?

23 MR. SUTHERLAND: Object to the form.

24 THE WITNESS: I don't know.

25 BY MS. LEONARD:

1 Q. Has anyone ever explained to you what the
2 purpose of that five-minute waiting period is?

3 MR. SUTHERLAND: Same objection.

4 THE WITNESS: Not that I recall.

5 BY MS. LEONARD:

6 Q. The same sentence mentions a
7 closed-circuit TV camera. Is that the same camera that
8 we've been discussing earlier, the zoom camera?

9 A. No.

10 Q. What is the closed-circuit TV camera?

11 A. I don't know what that is.

12 Q. Have you seen a closed-circuit TV camera
13 in the Capital Punishment Unit?

14 A. I don't know how to distinguish closed
15 circuit from any other camera.

16 Q. Is the zoom camera a closed-circuit
17 camera?

18 A. I don't know.

19 Q. Does it broadcast anywhere outside of the
20 Capital Punishment Unit?

21 A. I don't know.

22 Q. Do you have -- you mentioned earlier that
23 you have control over the zoom camera. Am I recalling
24 that correctly?

25 A. The Observer has control of the camera

1 itself.

2 Q. Right. I apologize, so it's the
3 Observer's job.

4 Does the Observer have control over this
5 closed-circuit TV camera, as well?

6 A. Not that I'm aware.

7 Q. In Item 8, it talks about the physician
8 coming into the room to conduct an examination. What
9 are you doing while the physician is completing that
10 examination?

11 A. I don't have any specific
12 responsibilities during that examination.

13 Q. And then it says in the next sentence:
14 "The physician reports his findings to the Warden or
15 designee."

16 Who is the designee in this sentence,
17 without giving me that person's name?

18 A. I don't know. The only other person in
19 the room would be the Associate Warden.

20 Q. Okay. Section 12 on the next page, Page
21 67, also uses the term "Designee." It says: "A
22 Commissioner or designee notifies all appropriate State
23 officials that the sentence has been carried out."

24 Without giving me a name, who is that
25 designee?

1 A. I don't know.

2 Q. In either of the two executions you've
3 been involved in, did someone other than the
4 Commissioner notify State officials?

5 MR. SUTHERLAND: Object to the form.

6 THE WITNESS: I don't know.

7 BY MS. LEONARD:

8 Q. What are you doing during that time when
9 the Commissioner or a designee notifies the State
10 officials?

11 MR. SUTHERLAND: Object to the form.

12 THE WITNESS: I don't know. I don't know
13 when that notification takes place.

14 BY MS. LEONARD:

15 Q. And then the very last item, Item 16 on
16 Page 67, states that: "The Lethal Injection Recorder
17 completes the Lethal Injection Executor" -- "Execution
18 Recorder Checklist." Excuse me.

19 But that Lethal Injection Recorder is not
20 you, correct?

21 A. Correct.

22 Q. And it is not part of your responsibility
23 to complete the Lethal Injection Execution Recorder
24 Checklist?

25 A. Correct.

1 Q. What happens to that checklist after it's
2 completed?

3 MR. SUTHERLAND: Object to the form.

4 THE WITNESS: I don't know.

5 BY MS. LEONARD:

6 Q. Do you ever read that checklist after
7 it's completed?

8 A. I do not.

9 Q. Have you ever reviewed a Lethal Injection
10 Execution Recorder Checklist?

11 MR. SUTHERLAND: Same objection.

12 THE WITNESS: Not that I can recall.

13 BY MS. LEONARD:

14 Q. Do you ever use them as part of training
15 sessions?

16 A. I don't, no.

17 Q. Does anyone in the practice sessions
18 refer to those checklists during practice sessions?

19 A. I don't know. Someone probably completes
20 it somewhere.

21 Q. But it doesn't come back up again in
22 practice sessions?

23 A. We don't talk about the checklist, if
24 that's what you're asking. It's not used in the space
25 that I'm in.

1 Q. Okay. Let's go to Page 69. We are still
2 in Exhibit 1.

3 A. Okay.

4 Q. This page lists "Contingency Issues." Do
5 you need a minute to look this over?

6 A. Sure.

7 (Witness reviews document.)

8 THE WITNESS: Okay.

9 BY MS. LEONARD:

10 Q. So it looks to me like there are sort of
11 three separate contingency issues listed on this page
12 under each of the headings. One is "IV Line
13 Alternatives," one is "Interruption of the delivery of
14 the lethal injection drugs," and then one is for
15 "Repeating the Lethal Injection Process." Is that what
16 you're seeing, as well?

17 A. It is.

18 Q. Are these contingency issues the only
19 issues you are prepared to address during an execution?

20 MR. SUTHERLAND: Objection to the form.

21 THE WITNESS: I don't know.

22 BY MS. LEONARD:

23 Q. Do you receive training on any other
24 contingency issues aside from those listed on this
25 page?

1 A. I don't train -- recall training on any
2 other contingencies.

3 Q. What happens if a different contingency
4 arises?

5 MR. SUTHERLAND: Objection to the form.

6 THE WITNESS: I don't know.

7 BY MS. LEONARD:

8 Q. Have you ever thought about a different
9 contingency arising?

10 MR. SUTHERLAND: Same objection.

11 THE WITNESS: I've probably thought about
12 what other contingencies could be, but....

13 BY MS. LEONARD:

14 Q. What have you thought the other
15 contingencies could be?

16 A. I can't say I've come up with any.

17 Q. So the contingencies on this page are the
18 only things you can think of?

19 MR. SUTHERLAND: Same objection.

20 THE WITNESS: That I can recall.

21 BY MS. LEONARD:

22 Q. Okay. Why -- in the middle of the page,
23 it says:

24 "The Executioner switches to the secondary
25 IV line, and starting with syringe No. 1,

1 blue, begins the administration of the
2 second set of syringes using the reserve
3 tray."

4 Why would the Executioner switch to the
5 secondary IV line?

6 MR. SUTHERLAND: Objection to the form.

7 THE WITNESS: Because that's what the
8 contingency calls for.

9 BY MS. LEONARD:

10 Q. And has anyone ever explained to you why
11 the Executioner would make a switch under that
12 circumstance?

13 A. Not that I recall.

14 Q. If the Executioner does switch to the
15 secondary IV line and administers the second set of
16 midazolam, how much total midazolam is injected into
17 the prisoner?

18 MR. SUTHERLAND: Objection to the form.

19 THE WITNESS: You're asking, if all four
20 midazolam syringes were used, how much midazolam
21 is injected?

22 BY MS. LEONARD:

23 Q. Correct.

24 A. That would be a total of 1,000
25 milligrams.

1 Q. What are the effects of injecting someone
2 with 1,000 milligrams of midazolam?

3 MR. SUTHERLAND: Objection to the form.

4 THE WITNESS: I don't know.

5 BY MS. LEONARD:

6 Q. Has anyone ever explained to you what
7 that much midazolam can do to a human body?

8 A. No.

9 Q. Have you ever received any training on
10 that topic?

11 A. No.

12 Q. Have you ever conducted any independent
13 research into the topic?

14 A. I have not.

15 Q. What happens if the prisoner is
16 responsive after the administration of the second set
17 of syringes?

18 MR. SUTHERLAND: Objection to the form.

19 THE WITNESS: I don't know.

20 BY MS. LEONARD:

21 Q. Does the protocol provide for what you're
22 supposed to do in that circumstance?

23 A. I don't believe it's in the protocol.

24 Q. What happens if the prisoner is not
25 deceased after both sets of the syringes have been

1 administered?

2 MR. SUTHERLAND: Objection to the form.

3 Are you talking about just the midazolam, Lynne,
4 or are you talking about all of the injections?

5 MS. LEONARD: Just for -- I'm talking
6 about the -- the initial set of syringes. So the
7 first set; not the backup secondary line, but the
8 initial first complete set of all drugs.

9 MR. SUTHERLAND: Objection to the form.

10 THE WITNESS: So after the first complete
11 set is used?

12 BY MS. LEONARD:

13 Q. Yes. What happens if the prisoner is not
14 deceased?

15 MR. SUTHERLAND: Objection to the form.

16 THE WITNESS: Then the Warden would
17 signal the Executioner to move to the second set.

18 BY MS. LEONARD:

19 Q. And what happens if the prisoner is not
20 deceased after that second set is also administered?

21 MR. SUTHERLAND: Same. Object to the
22 form.

23 THE WITNESS: I don't know.

24 BY MS. LEONARD:

25 Q. Have you ever trained for that scenario?

1 A. I don't recall a training in that
2 scenario.

3 Q. What happens if the IV catheter becomes
4 dislodged?

5 MR. SUTHERLAND: Same objection.

6 THE WITNESS: You mean during the
7 administration of the chemicals?

8 BY MS. LEONARD:

9 Q. Yes.

10 A. I don't know.

11 Q. Have you ever reached -- received
12 training on that type of scenario?

13 A. I don't recall a training on that
14 scenario.

15 Q. What happens if the prisoner shows signs
16 of severe pain during the execution?

17 MR. SUTHERLAND: Objection to form.

18 THE WITNESS: I don't know.

19 BY MS. LEONARD:

20 Q. Have you ever seen this in an actual
21 execution?

22 A. Seen severe pain in an actual execution?

23 Q. Yes.

24 A. No.

25 Q. Is it part of your duty to watch the

1 prisoner to see if he's exhibiting signs of severe
2 pain?

3 A. No.

4 Q. Is it someone else's job to watch for
5 signs of severe pain?

6 A. I'm not sure who's responsible.

7 MR. SUTHERLAND: Object to the form.

8 Excuse me. Object to the form. You can answer.

9 THE WITNESS: I'm not sure if anyone's
10 responsible.

11 BY MS. LEONARD:

12 Q. You're not sure if anyone's supposed to
13 be watching if the prisoner is showing signs of severe
14 distress?

15 A. I don't know the responsibilities of
16 everybody on the Execution Team.

17 Q. Fair enough.

18 What happens if you have issues with the
19 IV equipment?

20 MR. SUTHERLAND: Object to the form.

21 THE WITNESS: What do you mean by "issues
22 with the IV equipment?"

23 BY MS. LEONARD:

24 Q. What if some of the equipment
25 malfunctions during the execution?

1 MR. SUTHERLAND: Same objection.

2 THE WITNESS: I'm not sure I understand
3 what kind of malfunction you mean.

4 BY MS. LEONARD:

5 Q. Well, it could be anything. Say what if,
6 for example, the zoom camera suddenly loses power and
7 goes out during the execution?

8 MR. SUTHERLAND: Same objection.

9 THE WITNESS: A zoom camera is operated
10 by one Observer. The Executioner is able to
11 observe through the window. The Warden and
12 Associate Warden are there also. I'm not sure
13 what would happen.

14 BY MS. LEONARD:

15 Q. Have you ever trained for this type of
16 scenario?

17 A. I don't recall training for it.

18 Q. What would happen if one of the members
19 of the IV Team had some type of medical issue during
20 the execution?

21 MR. SUTHERLAND: Same objection.

22 THE WITNESS: There are EMTs in the next
23 room.

24 BY MS. LEONARD:

25 Q. And those EMTs would address the problem?

1 MR. SUTHERLAND: Object to the form.

2 THE WITNESS: I would assume so.

3 BY MS. LEONARD:

4 Q. Have you ever trained for that type of
5 scenario?

6 A. I don't recall training for it.

7 Q. And what if there are any unanticipated
8 medical issues with the prisoner who is being executed?

9 MR. SUTHERLAND: Same objection.

10 THE WITNESS: I don't know.

11 BY MS. LEONARD:

12 Q. You also never trained for that scenario?

13 A. I don't recall training for it.

14 Q. Okay. Let's flip back to Page 31 of
15 Exhibit 1. It should say "Execution Team Member
16 Selection Criteria, Lethal Injection." Do you have
17 that, as well?

18 A. Yeah, I'm there.

19 Q. Do you need a second to review this page?

20 A. No, I think I'm okay.

21 Q. Without giving me a name, who selected
22 you as an IV Team Member?

23 A. I think I was initially asked by the
24 Commissioner.

25 Q. Did you fill out an application for the

1 position?

2 A. No.

3 Q. Did you have to do an interview for the
4 position?

5 A. I don't believe it was a formal
6 interview.

7 Q. Did you have any sort of informal
8 interview for the position?

9 A. I don't know that it was -- I don't know
10 if I'd call it an interview. It was a conversation.

11 Q. And who was that conversation with,
12 without giving me the person's name?

13 A. The Commissioner.

14 Q. And was that after the Commissioner asked
15 you to become an IV Team Member?

16 A. It may have been at the same time.

17 MR. SUTHERLAND: Object to the form.
18 Object to the form.

19 THE WITNESS: It may have been at the
20 same time.

21 BY MS. LEONARD:

22 Q. Okay. And what did you discuss during
23 that conversation?

24 MR. SUTHERLAND: I'm going to -- to the
25 extent the conversation relates to being on the IV

1 Team, I would -- I'm going to object to any --
2 without knowing, I'm going to object to anything
3 other than discussion about the IV Team or being
4 on the Execution Team.

5 BY MS. LEONARD:

6 Q. So IV Team Member, do you understand that
7 -- within the confines of becoming an IV Team Member,
8 what was the content of the discussion?

9 A. I don't recall the specific details of
10 the conversation beyond gauging my willingness and how
11 I felt about it. That was essentially the
12 conversation.

13 Q. And what did you tell the Commissioner
14 about your willingness?

15 A. That I would be willing to participate.

16 Q. Did anyone recommend you to become an IV
17 Team Member?

18 A. I don't know.

19 Q. Why do you believe that you were asked to
20 be an IV Team Member?

21 MR. SUTHERLAND: Object to the form.

22 THE WITNESS: I don't know.

23 BY MS. LEONARD:

24 Q. During the conversation with the
25 Commissioner, were you asked about your ability to

1 maintain confidentiality?

2 A. I don't know it was specifically asked in
3 that conversation.

4 Q. You just don't remember?

5 A. I don't remember.

6 Q. What qualifications do you have to be an
7 IV Team Member?

8 MR. SUTHERLAND: Object to the form.

9 THE WITNESS: Just the training that I
10 receive.

11 BY MS. LEONARD:

12 Q. And that's the training that you
13 mentioned earlier in 2016 with the IV therapy
14 professional?

15 A. Correct.

16 Q. Is there any additional training, aside
17 from that, that you've received specific to being an IV
18 Team Member?

19 A. We receive training from one of the EMTs
20 on a semiannual basis.

21 Q. So semiannual, does that mean twice a
22 year?

23 A. I would say twice a year, give or take.

24 Q. And this is one of the EMTs on the
25 Execution Team?

1 A. It has been.

2 Q. Is it always the same EMT that teaches
3 this training?

4 A. I don't think it's the same one every
5 time.

6 Q. What do you learn in that training?

7 A. It's basically refresher training on
8 preparing IV lines, starting an IV, inserting a
9 catheter, and so on.

10 Q. Okay. And who else is in that training
11 with you, without giving me names?

12 A. Generally, it's the Executioner and the
13 other members of the IV Team that are in the room with
14 us.

15 Q. And that's true even though you never --
16 you have not ever been the person to actually insert
17 the IV lines?

18 A. That's correct.

19 Q. And so why is it that you receive that
20 training, if you're never actually inserting the lines?

21 MR. SUTHERLAND: Object to the form.

22 THE WITNESS: I don't know.

23 BY MS. LEONARD:

24 Q. Is your position as an IV Team Member
25 considered specialized?

1 MR. SUTHERLAND: Object to the form.

2 THE WITNESS: I don't know.

3 BY MS. LEONARD:

4 Q. At the bottom of Page 31, it says: "The
5 following positions on the Execution Team are
6 specialized and have specific requirements." Do you
7 see where I'm looking?

8 A. I do.

9 Q. And I believe you mentioned earlier that
10 you are part of Item 2, the three correctional staff;
11 is that right?

12 A. Correct.

13 Q. So it looks like the protocol says that
14 your position is specialized?

15 A. It does say that.

16 Q. Okay. But you weren't sure before today
17 whether or not your position is considered specialized?

18 MR. SUTHERLAND: Object to the form.

19 THE WITNESS: I don't know.

20 BY MS. LEONARD:

21 Q. No one's ever discussed that, or the
22 specific requirements, with you?

23 A. The training hasn't --

24 MR. SUTHERLAND: Objection.

25 THE WITNESS: The training hasn't

1 discussed it. If it's specialized, I don't
2 recall.

3 BY MS. LEONARD:

4 Q. Did the Commissioner mention that this
5 was a specialized position in your conversation with
6 him?

7 A. I don't know if those words were used.

8 Q. Did the Commissioner mention that there
9 were specific requirements for IV Team Members on the
10 Execution Team?

11 A. I don't remember if that was discussed.

12 Q. Let's go back to Exhibit 2.

13 A. Okay.

14 MS. LEONARD: We've looked at these a
15 little bit earlier today. You said that you were
16 familiar with these instructions?

17 THE WITNESS: Yes.

18 BY MS. LEONARD:

19 Q. And these are the "Midazolam Storage and
20 Preparation Instructions" that you're looking at?

21 A. Yes.

22 Q. And you said you reviewed these nearly
23 daily leading up to an execution?

24 A. Yes, give or take.

25 Q. And the last time that you reviewed them

1 was probably sometime in the last six months?

2 A. Correct.

3 Q. Okay. And you said that you believe
4 these come from the pharmacist?

5 A. That's my understanding.

6 Q. But you've never actually talked to the
7 pharmacist yourself?

8 A. Correct.

9 Q. How do you know when to move the
10 midazolam to the refrigerator?

11 MR. SUTHERLAND: Object to the form.

12 THE WITNESS: How do we know when to?

13 BY MS. LEONARD:

14 Q. Right.

15 A. I don't know. It's my understanding the
16 Warden makes that decision.

17 Q. Are you ever the person that moves the
18 midazolam from the freezer to the refrigerator?

19 MR. SUTHERLAND: Same. Object to the
20 form.

21 THE WITNESS: I don't believe I have.

22 BY MS. LEONARD:

23 Q. Did you do it for Mr. Johnson's
24 execution?

25 MR. SUTHERLAND: Same objection.

1 THE WITNESS: I don't believe so.

2 BY MS. LEONARD:

3 Q. Did you do it for Mr. Irick's execution?

4 MR. SUTHERLAND: Same objection.

5 THE WITNESS: Not that I recall.

6 BY MS. LEONARD:

7 Q. Steps 6 through 8 on Page 1 mention
8 "aseptic technique." What is aseptic technique?

9 MR. SUTHERLAND: Same objection.

10 (Witness reviews document.)

11 THE WITNESS: I'm sorry, I'm trying to
12 read.

13 I'm not sure I understand what that
14 means.

15 BY MS. LEONARD:

16 Q. Have you ever asked anyone what this
17 means?

18 A. Not that I recall.

19 Q. Would you be able to tell whether the
20 Executioner is using aseptic technique?

21 MR. SUTHERLAND: Same objection.

22 THE WITNESS: Not without defining it.

23 BY MS. LEONARD:

24 Q. "Not without defining it?" Is that what
25 you said?

1 A. Correct.

2 Q. And so you reviewed these instructions
3 daily for a two- to three-week period at least twice
4 for each execution; and also in between, every three to
5 six months, and never asked someone to clarify what
6 that term means?

7 MR. SUTHERLAND: Same objection.

8 THE WITNESS: As best I remember.

9 BY MS. LEONARD:

10 Q. As best you remember, you can't -- you
11 have never known what that term means?

12 A. Correct.

13 Q. On Page 2, Step 13 instructs to "Withdraw
14 5 milliliters from the first vial of midazolam." What
15 happens if more than 5 milliliters is withdrawn?

16 MR. SUTHERLAND: Object to the form.

17 THE WITNESS: I'm not sure what you mean,
18 "more than 5 milliliters is withdrawn."

19 BY MS. LEONARD:

20 Q. You said it was your duty to watch the
21 Executioner draw the midazolam up from the vials into
22 the syringes; is that right?

23 A. Yes.

24 Q. And it's part of your duty to correct --
25 make sure that he's doing that correctly?

1 A. Yes.

2 Q. And so if he withdraws more than 5
3 milliliters, that would be incorrectly?

4 A. It would. They're 5-milliliter vials.

5 Q. Okay. And so what happens if the amount
6 of midazolam that's withdrawn is a different amount
7 than 5 milliliters?

8 MR. SUTHERLAND: Object to the form.

9 THE WITNESS: That hasn't occurred.

10 BY MS. LEONARD:

11 Q. Have you trained for that?

12 A. I don't recall training for that
13 specifically.

14 Q. How big are the vials of midazolam that
15 are used during executions?

16 A. 5-milliliter vials.

17 Q. Is it ever a different-sized vial for
18 midazolam?

19 A. Not in the two executions I've
20 participated in.

21 Q. Has it ever been a different-sized vial
22 in trainings?

23 MR. SUTHERLAND: Object to the form.

24 THE WITNESS: We don't use vials in
25 training.

1 BY MS. LEONARD:

2 Q. What do you use in training to practice
3 the preparation of the drugs?

4 A. We simulate with saline.

5 Q. And does anyone draw the saline up from
6 vials into syringes during trainings?

7 A. No, it's drawn from the saline bag.

8 Q. Okay. So vials are not part of the
9 training at all?

10 A. No.

11 Q. Okay. I understand.

12 And then Exhibit No. 4, which we also
13 looked at this morning, the "Potassium Chloride
14 preparation instructions."

15 A. Okay.

16 Q. I believe you testified earlier that you
17 have seen this document before?

18 A. Yes.

19 Q. But you cannot recall the first time that
20 you saw this document?

21 A. I don't recall exactly when.

22 Q. And would you say that was within the
23 last year?

24 A. It might have been. I don't -- I don't
25 recall.

1 Q. So you don't recall using these
2 instructions during Mr. Johnson's execution?

3 A. We did not use those instructions during
4 Mr. Johnson's execution. We used commercially
5 manufactured potassium chloride.

6 Q. And how about Mr. Irick's execution?

7 A. That was the same.

8 Q. So you didn't use these instructions for
9 that, either?

10 A. Correct.

11 Q. Okay.

12 MS. LEONARD: Do you need a quick break,
13 or are we okay to proceed on?

14 THE WITNESS: I'm fine.

15 MR. SUTHERLAND: How much longer do you
16 have, Lynne?

17 MS. LEONARD: Still a little. We're
18 getting close to the end, but still a little bit
19 to go. Maybe, you know, another half hour to an
20 hour, depending on how we proceed here.

21 MR. SUTHERLAND: It's up to you.

22 MS. LEONARD: I'm fine to continue. I
23 mean, we can also proceed another 20 minutes or
24 half hour and see how we feel then.

25 MR. SUTHERLAND: Sure.

1 MS. LEONARD: And IV Team Member, if you
2 need a break, please speak up. Don't feel shy.

3 THE WITNESS: Okay. Thank you.

4 BY MS. LEONARD:

5 Q. We're going to flip back to Exhibit 1 and
6 this time look at Page 32.

7 A. Okay.

8 Q. So this page talks about "Training of
9 Execution Team Members." Do you need a second to
10 review this page?

11 A. No, I think I'm okay.

12 Q. Okay. In Item 1, about halfway through,
13 it says "The Warden or designee holds a class during
14 which the manual is reviewed and clearly understood by
15 all participants."

16 Does this class take place in person?

17 A. I'm not certain.

18 Q. When did you most recently attend this
19 class?

20 A. I don't believe I've attended a class
21 with the Execution Team.

22 Q. You've never attended a class with the
23 Execution Team?

24 A. If I have, it may have been at the
25 beginning, but I don't recall taking a class.

1 Q. When you say "at the beginning," do you
2 mean in 2016 when you first became an IV Team Member?

3 A. Yes.

4 Q. But you don't recall attending any class
5 since that time?

6 A. Not a specific class.

7 Q. Do you recall attending any class?

8 A. Not related to the protocols.

9 Q. Okay. So you have the IV therapy
10 professional training, and then you have the semiannual
11 training with the EMTs, but there's never been any
12 additional class besides those things?

13 A. I don't remember being in a class.

14 Q. Okay. So this annual class that's
15 referred to here is not ringing any bells for you?

16 A. Not a class. I have an annual review of
17 the protocol.

18 Q. What is -- what happens during that
19 annual review of the protocol?

20 A. I personally review the protocol and sign
21 for that in the Warden's office.

22 Q. You do that by yourself?

23 A. I don't know if I do it by myself every
24 time. There's probably another member of the IV Team
25 on occasion.

1 Q. When is the last time that you did your
2 annual review of the protocol?

3 A. I don't remember the last formal review
4 where I signed it. I think it would have likely been
5 earlier this year.

6 Q. So sometime in 2021?

7 A. I believe so.

8 Q. And were you by yourself for that annual
9 review?

10 A. I think I was.

11 Q. You think you were, but you don't
12 remember for sure?

13 A. Not for certain.

14 Q. What -- what does the annual review
15 involve?

16 A. It involves reading the manual, front to
17 back.

18 Q. Okay. And so do you do that? Does
19 someone read it to you?

20 A. No.

21 Q. You read that by yourself?

22 A. Yes.

23 Q. And when you say someone else might be
24 there on occasion, does that person also read the
25 protocol to him or herself?

1 A. Yes.

2 Q. So you and this other person sit in the
3 same room and read the protocol to yourselves silently?

4 A. I'm sure we discuss items at times.

5 Q. What kind of items would you discuss?

6 MR. SUTHERLAND: Object to the form.

7 THE WITNESS: I don't remember.

8 BY MS. LEONARD:

9 Q. And is anyone else there when you do this
10 annual review?

11 A. I don't remember. The Warden may have
12 been present on an occasion.

13 Q. How many times total have you done this
14 annual review?

15 A. This -- this formal review, every year.
16 I've reviewed it informally many more times than that.

17 Q. I'm sorry, how many times for the formal
18 review total?

19 A. Every year since I've been a member of
20 the IV Team for the formal review.

21 Q. Okay. And does that happen at the same
22 time every year?

23 A. I don't remember. I don't think that
24 there's a day set aside every year to do it.

25 Q. Okay. So when it says here in the

1 protocol that the Warden or designee holds an execution
2 manual review class for all members of the Execution
3 Team, you're not sure what that means?

4 A. I don't recall attending one.

5 Q. Okay. You don't recall attending a
6 review class with all members of the Execution Team,
7 just to make sure my understanding is correct?

8 A. Correct.

9 Q. Okay. And then you mentioned that you
10 sign for the annual review. What do you sign?

11 A. There's a record of some sort that's kept
12 in the Warden's office.

13 Q. And does it -- are you the only person
14 that signs that record?

15 A. I don't know. I suspect everyone that
16 has to review it does so.

17 Q. But have you seen other signatures on
18 that document?

19 A. I don't remember.

20 MS. LEONARD: Scott, is that something
21 that we have in discovery? If not, I think we're
22 going to request to see the records of this annual
23 review.

24 MR. SUTHERLAND: Yeah, we'll check on
25 that.

1 MS. LEONARD: Okay. Great. Thank you.

2 BY MS. LEONARD:

3 Q. I'm still looking at "Training of the
4 Execution Team Members," Page 32. Item 2 says that:

5 "The Execution Team simulates Day 3
6 Execution Day of the Death Watch Procedures
7 and the steps outlined in Section 4 for at
8 least one hour each month."

9 Do you see where I'm reading?

10 A. I do.

11 Q. Do you participate in that training?

12 A. I do.

13 Q. Do you do that every month?

14 A. I haven't attended it every single month.

15 Q. Why not?

16 A. There have been times when I haven't been
17 available to attend.

18 Q. How many of these trainings would you say
19 that you have attended?

20 A. I've attended the majority of them. It's
21 not frequent that I miss.

22 Q. So when you say "the majority," you mean
23 60 percent?

24 A. I would say maybe as much as 75 percent.

25 Q. Okay. But probably not more than 75

1 percent?

2 A. I don't know.

3 MR. SUTHERLAND: Object to the form.

4 BY MS. LEONARD:

5 Q. And is attendance of these trainings
6 logged somewhere?

7 A. It is.

8 Q. Are all team members required to
9 participate in the trainings?

10 A. As far as I know, yes.

11 Q. When did you most recently participate in
12 the training?

13 A. Last month, I believe.

14 Q. So in August of 2021?

15 A. I believe so.

16 Q. Then Item 2 goes on to describe what the
17 simulation includes. It says that:

18 "Volunteers play the role of both the
19 condemned inmate and physician, saline
20 solution is substituted for the lethal
21 chemicals, and a body is not placed in the
22 body bag."

23 In Item (a), "Volunteers play the role of
24 condemned inmate and physician." Have you ever been one
25 of those volunteers?

1 A. I have not.

2 Q. Without giving me names, who are the
3 volunteers who volunteer to play those roles?

4 A. It's various members of the Execution
5 Team.

6 Q. But it's never been you?

7 A. It has not.

8 Q. Has it ever been the Executioner?

9 A. Not -- not during the trainings I've
10 attended.

11 Q. Has it ever been the Observer that's on
12 the IV Team?

13 A. Not that I've attended.

14 Q. Has it ever been the additional IV Team
15 Member who's in the lethal injection room with you
16 during executions?

17 A. I don't believe so, that I've attended.

18 Q. Has it ever been one of the EMTs?

19 A. Also not that I've attended.

20 Q. Does the physician attend these
21 trainings?

22 A. No.

23 Q. Does any other medical professional
24 attend these trainings?

25 A. Not that I'm aware.

1 Q. Is the IV insertion simulated during
2 these trainings?

3 A. Yes -- I'm sorry, no, it's not simulated.
4 It's conducted.

5 Q. The IV insertion actually happens during
6 the trainings?

7 A. That's correct.

8 Q. And so during the trainings you've
9 attended, have the IVs always been inserted in the
10 antecubital fossa area?

11 A. I don't know that it's been every single
12 time. I think I've seen a few moved to the hand.

13 Q. And other than the hand, have you ever
14 seen the IVs inserted anywhere else?

15 A. Not that I can recall.

16 Q. Is the pan-tilt-zoom camera turned on
17 during the practice session?

18 A. It is.

19 Q. At what point do you turn on that camera
20 during a practice session?

21 A. When we first go into the room to begin
22 setting up the IV lines, one of us will turn that on
23 and make sure it's running.

24 Q. When you say "one of us," do you mean one
25 of the IV Team Members?

1 A. Yes, or the Executioner.

2 Q. Okay. Is that usually the Observer?

3 A. More often than not, yes.

4 Q. And who -- are you also the same people
5 who ensure that the camera is operable?

6 A. We do.

7 Q. Okay. Let's go to Page 51, five-one.
8 Still in Exhibit 1.

9 A. Okay.

10 Q. Do you need a minute to review this? It
11 also continues on to the next page, 52.

12 A. Sure.

13 (Witness reviews document.)

14 THE WITNESS: Okay.

15 BY MS. LEONARD:

16 Q. Item 3 on Page 51 says: "Readily
17 available to the Execution Team are radios with
18 holster, keys, and restraints."

19 Do you see where I'm reading?

20 A. Yes.

21 Q. Do you use radios with the holster, keys,
22 and restraints?

23 A. I do not.

24 Q. Why not?

25 A. I don't have need for those in my

1 responsibilities.

2 Q. Without giving me the names, who on the
3 execution does use those items?

4 A. The Extraction Team uses them. The
5 Associate Warden, I know, uses a radio. Beyond that, I
6 don't know.

7 Q. Okay. And then Section 4 has many
8 various subsections. The first one, A, says:

9 "The Execution Team's Officer in Charge
10 and/or the Assistant Officer in Charge
11 conducts a training session at least once
12 each month at which time all equipment will
13 be tested. The training includes a
14 simulated execution; i.e., IV lines, IV
15 drips."

16 Is that the same training session we were
17 just discussing?

18 A. It is.

19 Q. Does this happen around the same time
20 each month?

21 A. Generally, yes.

22 Q. Who's responsible for scheduling these
23 trainings?

24 A. I think the Warden schedules them.

25 Q. And approximately how long does each

1 training session last?

2 A. Probably an hour and a half to two hours.

3 Q. And you already mentioned that your last
4 training session was in August 2021. When is the next
5 upcoming training?

6 A. I don't believe it's been scheduled.

7 Q. Okay. Will it be in the month of
8 September?

9 A. I'm sorry, they had a training for
10 September earlier this week.

11 Q. Oh. And did you attend that training?

12 A. I was unavailable for that training.

13 Q. Okay. And what -- how many trainings are
14 you allowed to miss per year?

15 A. I'm not aware there's a prescribed
16 number.

17 Q. If you were to miss half of the
18 trainings, would you still be allowed to participate in
19 a real execution?

20 MR. SUTHERLAND: Object to the form.

21 THE WITNESS: I don't know.

22 BY MS. LEONARD:

23 Q. How many other trainings have you missed
24 so far this year?

25 A. I don't know how many. It's maybe one or

1 two, but I don't recall.

2 Q. In addition to missing the September
3 training?

4 A. Right.

5 Q. Okay. So you may have missed two or
6 three total so far out of nine?

7 A. Maybe.

8 Q. Okay. But you don't remember?

9 A. I don't remember.

10 Q. Is that because you don't personally keep
11 track of the trainings you attend?

12 A. Correct.

13 Q. But there are official attendance
14 records? Someone else is logging your attendance?

15 A. There are. There's a training record
16 completed at each monthly training.

17 Q. And when you say you were unavailable,
18 why were you unavailable?

19 MR. SUTHERLAND: Object to the form.

20 THE WITNESS: Sometimes the
21 responsibilities of my position don't allow me to
22 get to the facility on the day that it's
23 scheduled.

24 BY MS. LEONARD:

25 Q. Okay. And that's -- you work somewhere

1 other than Riverbend, you said?

2 A. That's correct.

3 Q. And so something in your regular position
4 prevented you from being able to participate in the
5 training earlier this week?

6 A. Correct.

7 Q. Is your immediate supervisor in your
8 position aware that you are an IV Team Member?

9 A. Yes.

10 Q. Okay. So that individual understands
11 that you have training responsibilities over at
12 Riverbend once a month?

13 A. That is correct.

14 Q. We talked about the IV insertion a little
15 bit. Are you ever the person who inserts the IV lines
16 during the training?

17 A. I have not been.

18 Q. Are you the person who tests the IV drip?

19 A. I have been, but generally it's the
20 Executioner.

21 Q. How many -- roughly how many times would
22 you say you've been the person to test the IV drip?

23 A. Maybe five or six.

24 Q. Five or six ever?

25 A. Yes.

1 Q. Okay. And then other than that, it's
2 mostly been the Executioner?

3 A. Correct.

4 Q. And is it sometimes the Observer?

5 A. Yes, it has been.

6 Q. And is it sometimes the third person that
7 is in the lethal injection room, aside from the
8 Executioner, you, and the Observer?

9 A. It had been previously.

10 Q. And that person is the person who's no
11 longer employed by TDOC; is that correct?

12 A. Correct.

13 Q. And that's why you say "previously?"

14 A. Yes, yes.

15 Q. Okay. I understand.

16 It says here in Item 4B that:

17 "A week before a scheduled execution, the
18 Officer in Charge and Assistant assembles
19 the Execution Team in the Execution Chamber
20 area to prepare and test all appliances and
21 equipment for the scheduled execution."

22 How long does that session take?

23 A. I would say about the same amount of time
24 as the -- as Section A.

25 Q. So maybe an hour and a half to two hours?

1 A. Sure.

2 Q. Do you participate in this session --
3 this session, I guess we'll call it, described in 4B?

4 A. The same way that I would in Section A,
5 yes.

6 Q. Have you ever missed one of these
7 sessions before, a scheduled execution?

8 A. No, not in the time leading up to the
9 execution.

10 Q. So when you -- what -- what appliances
11 and equipment are tested at that time?

12 A. Beyond the -- what's in the lethal
13 injection room, I don't know what else is tested.

14 Q. Okay. So what appliances and equipment
15 in the lethal injection room are tested?

16 A. The -- the video camera and monitor. And
17 we likely conduct a full setup of the syringes and IV
18 lines.

19 Q. And you're part of -- and you -- it's
20 part of your responsibility to test that equipment?

21 A. I don't think I test that. If the camera
22 is working, that's sufficient. If there's something
23 wrong with it, we would have someone else look at it.

24 Q. I'm sorry, you said you would contact
25 somebody else if the camera is not working?

1 A. Correct.

2 Q. And that person's not necessarily a
3 member of the Execution Team?

4 A. I don't know if that's the case or not.
5 It's an IT person.

6 Q. Okay. I understand.

7 And Item C has a couple more subsections.
8 And it says in Section 4C(2) that:

9 "The Execution Team ensures that: The
10 Warden ensures that the Execution Team
11 carries out the following instructions.
12 Make sure that all equipment is properly
13 placed."

14 Is it part of your duties to ensure that
15 the equipment is properly placed?

16 A. Only the items that we would use in the
17 lethal injection room.

18 Q. Okay. And how does the Warden ensure
19 that you've done that?

20 MR. SUTHERLAND: Objection to the form.

21 THE WITNESS: The Warden has been present
22 for those. I know that he's come to -- into the
23 lethal injection room.

24 BY MS. LEONARD:

25 Q. So the Warden watches you place the

1 equipment?

2 A. I don't know that there's a specific step
3 to watching placement, no, but ensuring that everything
4 is where it's supposed to be.

5 Q. And we looked earlier at the Inventory
6 Checklist. At what point do you fill out that record?

7 A. I complete that record on the day of
8 execution prior to us preparing the chemicals.

9 Q. All right. I'm still looking in the same
10 section. It says in Item 6 at the very bottom of Page
11 51: "After the physician pronounces the inmate
12 deceased, the designee informs the Commissioner that
13 the sentence has been carried out."

14 A. Uh-huh.

15 Q. Who is the designee in that sentence?

16 A. I would say in the executions I've
17 attended it's been the Warden.

18 Q. Okay. And who -- in Item 7, it says:
19 "The body is removed and placed in a body bag by the
20 Execution Team and Medical Examiner's staff."

21 Who moves the body and places it into the
22 body bag?

23 A. I don't -- I don't know.

24 Q. That's not part of your responsibility?

25 A. It is not.

1 Q. Have you watched that being done in
2 either of the past two executions you've been a part
3 of?

4 A. I don't recall being present for it.

5 Q. And then when it says "The LIC and
6 syringes used are placed in the body bag and closed,"
7 is that your responsibility?

8 A. It's the IV Team and Executioner's
9 responsibility. I don't know that it's defined to one
10 person.

11 Q. Okay. But you are one of the people who
12 does that?

13 A. Yes.

14 Q. Did you do that task in Mr. Johnson's
15 execution?

16 A. I don't remember specifically placing it.

17 Q. Do you remember if you did that during
18 Mr. Irick's execution?

19 A. I don't recall doing it for that one,
20 either.

21 Q. So you may have done it; you just don't
22 remember, one way or the other?

23 A. It's possible.

24 Q. Okay. And you said that you're not
25 feeling ill or taking any medication that affects your

1 ability to recall facts today?

2 A. That's correct.

3 Q. What does it mean in Item 9, to "Clean
4 the equipment in the Death Watch area?"

5 A. I don't know. I'm not -- that's not a
6 part of my responsibilities.

7 Q. Okay. So when it says "The Execution
8 Team, under the direction of the Officer in Charge,"
9 you're not included in the Execution Team as it's used
10 there?

11 A. Not there.

12 Q. Okay. Who on the Execution Team, without
13 giving me names, does clean the equipment?

14 A. I don't know.

15 Q. Where are you when it's being cleaned?

16 A. I'm not -- I'm not sure when it happens,
17 so I don't know where I am.

18 Q. You say you're not sure when it happens?

19 A. I'm not sure. At the time it takes --
20 when it takes place, I don't know where I am.

21 Q. Okay. It says here, the last sentence in
22 that Item No. 9 says: "An entry is made in the post
23 log documenting the completion of these proceedings."

24 Is that your responsibility, to make that
25 entry in the post log?

1 A. It's not.

2 Q. Who does that, without giving me that
3 person's name?

4 A. I don't know.

5 Q. Have you ever seen that post log?

6 A. Not that I can identify it.

7 Q. Not that you can identify, meaning you --
8 you have not seen it that you're aware of?

9 A. Yes, I've seen it; I don't -- I don't
10 know it by that name.

11 Q. Okay. That makes sense.

12 And then in Item 10, it says:

13 "The Execution Chamber and Death Watch
14 areas are secured. The Execution Team
15 reports to the Warden's office for
16 additional instructions."

17 Are you part of the Execution Team that
18 reports to the Warden's office after the execution?

19 A. Yes.

20 Q. What type of additional instructions
21 might you get in the Warden's office?

22 A. I don't recall. I know that he covers
23 the availability of our crisis incident-stress
24 management team, should anybody need that. I don't --
25 more instructions on confidentiality.

1 But outside of those two things, I don't
2 remember anything else.

3 Q. Have you ever availed yourself of the
4 crisis incident management services?

5 A. I have not.

6 Q. And why not?

7 A. I've not found it necessary.

8 Q. Are you aware that some states perform
9 executions by firing squad?

10 A. I'm not aware that they still do, no.

11 Q. So you didn't realize that there are some
12 states who still today, in 2021, are doing execution by
13 firing squad?

14 A. I can't say that I knew that.

15 Q. Okay. Do you carry a firearm?

16 A. I do.

17 Q. Is that in connection with your work?

18 A. It is.

19 Q. And I believe you mentioned all the way
20 at the beginning of the deposition that you have
21 firearms training; is that right?

22 A. That's correct.

23 Q. And were you required to complete that
24 firearms training as an employee of TDOC?

25 A. Yes.

1 Q. Do you know of anyone else at TDOC that's
2 qualified to use a firearm, without specifically
3 identifying them?

4 A. That are qualified to carry a firearm?

5 Q. To use a firearm.

6 A. Yes. A great number of our staff are
7 trained for that.

8 Q. And without specifically identifying
9 them, do you know whether any of the other members of
10 the Execution Team are qualified to use a firearm?

11 A. I don't know for sure their training.

12 Q. But does TDOC provide firearms training?

13 A. It does.

14 Q. Does TDOC have access to a firearms
15 range?

16 A. Yes, it does.

17 Q. Does TDOC own firearms?

18 A. Yes.

19 Q. Does TDOC own ammunition?

20 A. Yes.

21 Q. Does TDOC have facilities where a firing
22 squad execution could take place?

23 MR. SUTHERLAND: I'm going to object to
24 the form.

25 THE WITNESS: I don't know what those

1 facilities would be.

2 BY MS. LEONARD:

3 Q. Could TDOC execute someone by firing
4 squad?

5 MR. SUTHERLAND: Same objection.

6 THE WITNESS: Not that I'm aware.

7 BY MS. LEONARD:

8 Q. Why not?

9 A. It's not allowable by law currently.

10 Q. If it were allowable by law, would TDOC
11 have the capabilities to do it?

12 A. I don't know.

13 Q. Would you personally be willing to be a
14 member of the firing squad if that became allowed under
15 Tennessee law?

16 MR. SUTHERLAND: Object to the form.

17 THE WITNESS: I don't know.

18 BY MS. LEONARD:

19 Q. If the Commissioner asked you to be part
20 of the Execution Team for a firing squad, would you
21 consider it?

22 MR. SUTHERLAND: Same objection.

23 THE WITNESS: I don't know.

24 BY MS. LEONARD:

25 Q. You've never thought about this before?

1 A. Not that specifically.

2 MR. SUTHERLAND: Same objection.

3 BY MS. LEONARD:

4 Q. What do you mean by "Not that
5 specifically?"

6 A. Not that specific method of execution.

7 Q. Okay. I understand.

8 MS. LEONARD: I think we're pretty close
9 to the end. I might just ask for maybe a
10 five-minute break to just confer with cocounsel
11 before we wrap up here.

12 THE VIDEOGRAPHER: Okay. We're off the
13 record. The time is 3:34 p.m.

14 (Recess at 3:34 p.m. to 3:41 p.m.)

15 THE VIDEOGRAPHER: We're back on the
16 record. The time is 3:41 p.m.

17 BY MS. LEONARD:

18 Q. IV Team Member, is there anything you
19 said here today that you feel the need to clarify?

20 A. No.

21 Q. Is there anything you want to restate?

22 A. Nothing that I can think of.

23 Q. Or anything that you want to supplement?

24 A. No.

25 Q. Have you ever participated in executions

1 aside from Mr. Johnson's and Mr. Irick's?

2 A. Yes.

3 Q. And those were the electric chair
4 executions?

5 A. That's correct.

6 Q. Have you ever participated in any other
7 lethal injection executions, aside from Mr. Johnson and
8 Mr. Irick?

9 A. No, I have not.

10 Q. Okay. And would you agree that a lethal
11 injection execution is a pretty memorable event?

12 A. I suppose you could call it that.

13 Q. And yet it seemed like there were quite a
14 few things that you didn't remember about Mr. Johnson
15 and Mr. Irick's executions. Is there any reason that
16 you might not remember these things?

17 A. I can't think of a reason, other than
18 time has passed.

19 MR. SUTHERLAND: I'm going to object to
20 form.

21 THE WITNESS: Sorry. I can't think of
22 any reasons, other than that time that's passed.

23 BY MS. LEONARD:

24 Q. Okay. So Mr. Johnson's execution was in
25 2019 and Mr. Irick's execution was in 2018, and yet you

1 don't remember things such as what instructions you
2 used during those executions?

3 A. I know we had the instructions in the
4 room. I'm just saying that we didn't have them in our
5 hands during that preparation.

6 Q. Okay. And so you did refer to the
7 instructions during those executions?

8 A. I don't know if we referred to them
9 specifically during that setup, but they were there and
10 available to us if we were unsure.

11 Q. Okay. And you also indicated you didn't
12 remember whether you were standing in a certain section
13 of the room during those executions; is that right?

14 A. No, I had moved within the room during
15 the execution, so at the exact moment I don't recall.

16 Q. Okay.

17 A. If that's what you're referring to.

18 Q. Sure. Do you recall during the
19 consciousness check during Mr. Johnson's execution
20 where you were located in the room?

21 A. Best I can remember, I was standing
22 behind the Executioner.

23 Q. And you and the Executioner were both
24 looking out of the same window that's about 1 foot in
25 size?

1 A. I may have been looking more at the
2 monitor, because it would have been difficult to see.

3 Q. And when you say "may have been," you say
4 "may have" because you don't remember?

5 A. Right. I don't recall what I was
6 viewing, I don't recall whether it was through the
7 window or the monitor. Whatever gave a better view.

8 Q. And is that also the same for Mr. Irick's
9 execution?

10 A. It would be.

11 Q. Okay. And just to make sure, nobody has
12 talked to you or sent you anything during this
13 execution?

14 A. No, not at all.

15 Q. Did you take any notes during this
16 deposition today?

17 A. I did not.

18 Q. Okay. And did you have any other
19 documents in the room, aside from the exhibits that we
20 discussed?

21 A. Just the log-in for this computer.

22 Q. And the voice modulator, I suppose?

23 A. Yes.

24 MS. LEONARD: Okay. Then I think that's
25 all the questions that I have for you.

1 Pursuant to the discussion I had with
2 Mr. Sutherland this morning, I'm going to request
3 that we leave the deposition open, primarily
4 pending our review of the documents that
5 Mr. Sutherland indicated he received recently from
6 this IV Team Member that we do not have yet.

7 MR. SUTHERLAND: So, Lynne, we will -- we
8 will agree to keep the deposition open for the
9 sole purpose of any questions that are directly
10 related to that training that the records pertain
11 to. We would -- we will object to any -- to
12 keeping it open for any other purposes.

13 MS. LEONARD: Okay.

14 MR. SUTHERLAND: And just I would like to
15 note for the record that the parties have agreed
16 that all objections during the depositions would
17 be objections to form in order just to expedite
18 the objection process. And that's what we've done
19 today.

20 THE VIDEOGRAPHER: Are we ready to go off
21 the record?

22 MR. SUTHERLAND: I think we are.

23 THE VIDEOGRAPHER: We're off record. The
24 time is 3:46 p.m.

25 (Proceedings recessed sine die at 3:46 p.m.)

C E R T I F I C A T E

STATE OF TENNESSEE

COUNTY OF KNOX

I, Rhonda S. Sansom, RPR, CRR, CRC, LCR #685,
licensed court reporter in and for the State of
Tennessee, do hereby certify that the above videotaped
videoconference deposition of IV TEAM MEMBER 2 was
reported by me and that the foregoing 216 pages of the
transcript is a true and accurate record to the best of
my knowledge, skills, and ability.

I further certify that I am not related
to nor an employee of counsel or any of the parties to
the action, nor am I in any way financially interested
in the outcome of this action.

I further certify that I am duly licensed
by the Tennessee Board of Court Reporting as a Licensed
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